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# REPORT

of

The Commission to Codify and Revise the Law  
Relating to Banks, Private Bankers and Trust  
Companies Doing Business within  
This Commonwealth.

*(Printed in Appendix to the  
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Approved under authority of the  
ACT OF THE GENERAL ASSEMBLY  
of Pennsylvania

*Approved July 25, 1917, P. L. 1202*



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To the General Assembly of the Commonwealth of Pennsylvania:

The Commission appointed in pursuance of the Act of the General Assembly approved July 25, 1917, P. L. 1202, to codify and revise the law relating to banks, private bankers and trust companies doing business in this Commonwealth, made a preliminary report February 26, 1919, submitting the draft of an act relating to the Banking Department of the State. This act with some slight amendments was adopted by the General Assembly and approved May 21, 1919 (P. L. 209).

The Commission in its report recommended the continuation of its work with the scope thereof broadened to include the study of the laws relating to savings banks and all institutions under the supervision of the Banking Department; and it further urged that the resolution adopted by the General Assembly in 1917, proposing the amendment of Section 11 of Article XVI of the Constitution, be approved by the General Assembly at the session of 1919.

The Commission was continued under Act of Assembly, approved July 21, 1919, P. L. 1057, with extended powers as suggested, and the resolution relative to the amendment of Section 11 of Article XVI of the Constitution was again adopted.

The approval of the constitutional amendment by the electors, November 2, 1920, has made it possible for the Commissioners to submit a final report and a draft of a codification of the Banking Laws of the State.

The work of the Commissioners has included a complete study of the banking laws of the Commonwealth, and also the banking laws of other states and of the United States. The Commissioners have incorporated in the act submitted a number of provisions derived from the National Bank Act, the Federal Reserve Act and the banking laws of other states. They have, however, followed to the fullest extent deemed expedient the laws of this Commonwealth dealing with banks, especially the few general laws which are as follows:

1. The Act of April 16, 1850, relating to banks of issue.
2. The Act of May 13, 1876, relating to banks of discount and deposit.
3. The Acts of May 9, 1889, and June 26, 1895, amending the 29th Section of the Act of April 29, 1874. These two acts cover the general powers of trust companies incorporated since the adoption of the present Constitution.
4. The Act of May 20, 1889, relating to savings banks.
5. The Act of June 19, 1911, relating to private banks.

Under the present banking laws there exist in the Commonwealth the following classes of banking or quasi-banking institutions:

1. State Banks. Most of these banks are incorporated under the Act of 1876. Some few are still operating under the Act of 1850, being banks of issue, but no longer exercising the issue privilege, because of the Federal tax provisions upon the issue of notes.

2. Trust Companies. Companies operating under special charters granted prior to the present Constitution, and trust companies incorporated as title insurance companies under the General Corporation Act and the amendments thereto of 1889 and 1895.

3. Savings Fund Institutions incorporated by special charter prior to the present Constitution. Mutual Savings Banks incorporated under Act of 1889. Co-operative Savings Banks and a few savings banks having a capital stock organized under old charters.

4. Private Bankers.

The act has been drawn to provide for all these classes of institutions, to make it possible for them to qualify thereunder, and further to provide that new institutions organized must incorporate in accordance with the provisions of the act.

For the sake of completeness, it has been deemed advisable to incorporate in the Code, with some few changes, the Banking Department Act of May 21, 1919, the provisions of which appear to have worked satisfactorily in the efficient operation of the Banking Department.

For the sake of convenience, the act has been divided into articles dealing with various powers, restrictions and provisions applicable to the various classes of institutions.

The Commissioners have agreed upon the principle that the development of banking in recent years has tended largely toward a character of institution which first, receives deposits; second, discounts paper; third, deals in securities; fourth, acts as fiduciary. In order that such an institution may function properly, it has been deemed advisable that it should be possible for such to enjoy a perpetual charter, and by reason of the amendment to Section 11 of Article XVI of the Constitution, it has been possible for the Commissioners to draft the act so as to provide for the granting of such charters. They have provided that trust companies accepting the act or hereafter incorporated thereunder shall enjoy the discount privilege, and have amplified the act of July 17, 1919, P. L. 1032, whereby state banks were permitted to act in a fiduciary capacity. They have felt that modern banking conditions require that the capital of such institutions be graded according to the population in the community served, and that institutions exercising fiduciary powers should have capital greater in amount than that required of state banks as such. They have, therefore, provided for an increased capital for both state banks

and trust companies in the larger centers of population and a smaller amount of capital in smaller communities. As the stockholders of state banks are subject to double liability on their holdings of stock, and under the act as drawn, trust companies qualifying thereunder or hereafter incorporated will enjoy the full powers of state banks, the Commissioners have reached the conclusion that it is proper that the stockholders of such trust companies should be subject to the double liability.

They have also felt that the provision in regard to the limit of loans might safely be increased from the percentage heretofore provided for state banks. They have incorporated certain restrictions as to investments, which banking practice would seem to indicate to be wise, and have granted certain powers of investment in addition to those now exercised by banks to enable such institutions to function properly.

Very careful consideration has been given to the powers and duties of directors, in the endeavor to safeguard the interests of depositors and stockholders without imposing burdens so heavy as to prevent banking institutions from securing proper persons to serve upon their boards.

It has seemed to the Commissioners wise that the powers of investment of savings banks should be amplified. They have, therefore, incorporated a provision giving such institutions the right to invest in bank acceptances, under certain restrictions and limitations, feeling that the holding of such investments by savings banks would tend to strengthen and render them more liquid to meet the needs of the communities served in times of financial stress. They have given most careful consideration to the provisions of the savings bank laws of those other states which specify minutely certain corporate obligations as legal investments for such institutions. They have been impressed with the remarkable market depression of such securities during and since the World War. Such market depression has convinced them that at this time it would be unwise to endeavor to broaden the investment powers of savings banks along such lines, believing that at a later date, when financial matters are more fully readjusted, experience will have better determined what additional classes of securities savings banks might be safely permitted to purchase.

The Commissioners have reached the conclusion that an increase in the number of so called private bankers (designated in this act "unincorporated banks") is not necessary to serve the convenience and need of the public; that for the protection of the public such institutions should become partnerships with increased capital, graded according to the population of the community served; and

that in operation their business should be conducted with practically the same powers and subject to the same limitations as those recommended for state banks.

Under recent Federal legislation (Section 11 (k) of the Federal Reserve Act as amended), national banks are given the right to exercise fiduciary powers when not in contravention to state law. The national banks so acting would not be required to give bond in this State. Fiduciary estates in the care of such banks are now subject to examination by state authority. The Commissioners have felt it proper that the Banking Department should have power of supervision over national banks acting in a fiduciary capacity to the same extent as in the case of trust companies. They have felt, however, that provision for such inspection should not be included in a State Banking Code. They have, therefore, prepared and submitted a draft of an act supplementing the Fiduciaries Act and the Wills Act, the adoption of which they feel would further safeguard the management of estates by national banks when exercising the fiduciary power.

In the course of their study and consideration of the Banking Laws, the Commissioners have had brought to their attention many times the question of the usury law of this Commonwealth. They have consulted with bankers, business men and others as to the economic effect of the present law.

Their investigation indicates that:

1. Money of Pennsylvania banking institutions and individuals flows from this State to markets offering higher rates of interest with good security.

2. Such flow of money to other markets reduces the amount of money loaned within the State.

3. Mortgages in this State are not largely sought by investors, for the reason that other investments can be secured within or without this State, considered equally safe, and bringing in a much higher rate of return.

4. Funds for investment in mortgages are greatly needed to help solve the present acute housing situation in various communities throughout the State.

5. The present usury law forces Pennsylvania corporations and individuals to contract outside the State for funds which otherwise could be furnished by Pennsylvania institutions, and the securities so issued in other states by Pennsylvania corporations are afterwards returned to this State and sold largely to Pennsylvania investors.

Therefore, the Commissioners have reached the conclusion that the present usury law does not accomplish the purpose for which it was enacted; and that in many cases it works an actual hardship to



the borrower and to the lender, both individual and corporate, within this State. They, therefore, suggest and recommend to the General Assembly the necessity for serious consideration of the advisability of altering or amending the present usury law so as to permit money in this Commonwealth to be more subject to the law of supply and demand, in the interest of the borrower, the lender and the public at large.

The time required in the work of revising and codifying the banking laws has made it impossible for the Commissioners to give full and proper consideration to the other subjects committed to them by the amendment of July 21, 1919. From the study made, however, they are convinced that the increasing service which building and loan associations are rendering to the public requires further legislation in order that their growth may not be retarded, and that the service they now render may be safely increased. They would, therefore, recommend to the General Assembly that full consideration be given to this subject.

The Commissioners have been greatly aided in their deliberations by counsel and recommendations from Hon. John S. Fisher, Commissioner of Banking, Capt. J. W. Morrison, First Deputy Commissioner, and P. G. Cameron, Second Deputy Commissioner. They desire to express their great appreciation of the able assistance so received, and for the many courtesies extended to them.

Respectfully submitted,

George D. Edwards,  
*Chairman.*

James A. Walker,  
*Secretary.*

Grover C. Ladner.

Alexander T. Connell.

John M. Reynolds.

Samuel D. Matlack.  
*Law Clerk.*

March 29, 1921.



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THE BANKING ACT.

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AN ACT

Codifying and revising the laws of the Commonwealth of Pennsylvania relating to the banking department and to banks, trust companies, title insurance companies, savings banks and private bankers; with table of contents.

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## ARTICLE I. GENERAL PROVISIONS.

Section 1. Short Title.— Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same, That this act shall be known and may be cited, as “The Banking Act of 1921.”

Section 2. Definitions—Except as otherwise expressly indicated, the following words, wherever used in this act, shall be taken and construed to have the following meanings:

“Bank” means any state bank, trust company, savings bank or unincorporated bank, heretofore or hereafter organized.

“Trust company” means a corporation having power to execute trusts and to act in any fiduciary capacity, whether such corporation has been heretofore organized under the General Corporation Act of 1874 and its supplements or under any previous act of assembly, general or special, or is hereafter organized under this act or any supplements thereto.

“Savings bank” means an institution incorporated under any general or special act of assembly on the mutual plan and without capital stock, and receiving deposits payable on stipulated notice.

“Unincorporated bank” means an individual, partnership or unincorporated association engaged in the business of banking.

“Banking” means discounting and negotiating promissory notes, drafts, bills of exchange and other evidences of debt, receiving deposits of money and commercial paper otherwise than as bailee, lending money on real or personal security, and buying and selling gold and silver bullion, foreign coins or bills of exchange.

“Commissioner” means the Commissioner of Banking.

“Person” means an individual, a partnership or an unincorporated association.

“Court” means the court of common pleas of the county where the banking house or other place of business of the corporation or person in question is located.

“Prothonotary” means the prothonotary of such court.

Note: The purpose of this section is merely to define terms as used in the Code, and not to attempt general definitions, enumerating the powers, etc., of the different institutions, which are fully set forth in the appropriate sections.

The last three definitions are copied from section 2 of the Banking Department Act of 1919.

Section 3. Unauthorized Use of Words Indicating Banking, Trust Company or Savings Bank Business.

(a) No corporation or person, except a national bank, a federal reserve bank, or an incorporated or unincorporated bank duly authorized to transact business in this state, shall, as a designation or name, or part of a designation or name, under which business is or may be transacted in this state, make use, in any of the ways enumerated in clause (d) of this section, of the word "bank," "banking," or any other word or words indicating the carrying on of a banking business.

(b) No corporation or person, except a corporation duly authorized to do a trust company business in this state, shall, as a designation or name, or part of a designation or name, under which business is or may be conducted in this state, make use, in any of the ways enumerated in clause (d) of this section, of the word "trust" or other word or words indicating the carrying on of a trust company business or a business in the nature thereof: Provided, That this clause shall not be construed to prevent any individual, as such, from acting in any trust capacity as heretobefore.

(c) No corporation or person, except a savings bank duly authorized to transact business in this state, shall as a designation or name, or part of a designation or name, under which business is or may be conducted in this state, make use, in any of the ways enumerated in clause (d) of this section, of the word "saving" or "savings," or any other word or words indicating the carrying on of the business of a savings bank or savings fund or a business in the nature thereof: Provided, however, That the prohibitions of this clause shall not apply to any incorporated bank having the word "saving" or "savings" as part of its corporate title at the date of the approval of this act, nor shall such prohibitions prevent any bank from establishing, operating or advertising a department for the receipt of savings or time deposits.

(d) The prohibitions of clauses (a), (b) and (c) of this section shall include the use of any of the prohibited words in any corporate, artificial or business name or title; the use of any office sign at the place where such business is transacted, having thereon any word or words indicating that such place or office is the place or office of a bank, trust company or savings bank, as the case may be; and the use or circulation of any letterheads, billheads, blank forms, notes, receipts, certificates, circulars, or any written or printed or partly written and partly printed paper whatever, having thereon any word or words indicating that such business is the business of a bank, trust company or savings bank, as the case may be.

(e) Any corporation or person violating any provision of this section shall forfeit to the commonwealth the sum of one hundred

dollars a day for every day or part thereof during which such violation continues, such penalty to be recovered in an action brought by the Commissioner in the name of the commonwealth, as other penalties are recoverable.

(f) In addition to the remedy provided by clause (e) of this section, a court of competent jurisdiction may, on bill filed by the Commissioner in the name of the commonwealth, issue an injunction restraining any such corporation or person from further using such word or words in violation of the provisions of this section and from further transacting business in such manner as to lead the public to believe that the business being carried on is that of a bank, trust company or savings bank, as the case may be, during the pendency of such action to recover the penalty, and perpetually, and may make such other order or decree as equity and justice may require.

Note:—This new section takes the place of the act of April 23, 1909 (P. L. 121; 5 Purd. 5701), relating to the use of the word "trust," and section 3 of the Private Banking Act, June 19, 1911, (P. L. 1069; 5 Purd. 5352), which is therefore omitted from Article VII of this Code.

Section 4. Applicability of Act.—Except as herein otherwise indicated, the provisions of this act shall apply to all banks heretofore incorporated or doing business at the date of the approval of this act, as well as those hereafter incorporated or established.

Note:—This section is new.

Section 5. Constitutionality of Act.—If any section, clause, sentence, paragraph, or other part of this act, shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this act or any part thereof, but shall be confined in its operation to the part thereof directly involved in the controversy in which such judgment shall be rendered, it being hereby declared that the legislature would have enacted the remainder of this act without such part adjudged to be invalid.

Any section, clause or other part of this act so declared to be invalid shall not be considered as having been stricken out from any other portion or portions of this act wherein cross-references thereto are made but shall be taken and construed as having been actually written in full, into such other portion or portions from which cross-references are made.

Note:—The first paragraph of this section is copied, with slight modifications, from section 51 of the Banking Department Act of 1919. The second paragraph is new.

Section 6. Acceptance of Provisions of Act.—Acceptance of the provisions of this act by any bank in existence at the date of the ap-



proval of this act, chartered under any law of this commonwealth, general or special, shall be by filing with the Commissioner a written acceptance under the seal of the corporation of all the provisions of this act and of the constitution of the Commonwealth, signed by the president and the cashier or treasurer of such bank and authorized by the vote of a majority of the stockholders thereof, or a majority of the trustees or managers where there are no stockholders, at a meeting called for that purpose.

When the Commissioner shall be satisfied that such bank has complied with all the requirements of this act, he shall issue to the bank a certificate to that effect and transmit a copy thereof to the Auditor General, and thereafter such bank shall be entitled to all the benefits and be subject to all the provisions of this act, but shall continue to possess all powers given to it by any special act of assembly, so far as the same shall not be inconsistent with this act or with the Constitution.

Note:—This takes the place of section 32 of the act of May 13, 1876 (P. L. 161; 1 Purd. 406), which does not prescribe the procedure and applies only to state banks. The new section includes trust companies, thus replacing section 3 of the act of June 11, 1885 (P. L. 111; 4 Purd. 4829). It also includes savings banks. The procedure conforms to that prescribed by section 26 of the General Corporation Act.

**Section 7. Expiration of Charter of Existing Bank.**—Whenever the charter of any bank in existence at the date of the approval of this act, which bank shall have accepted the provisions of this act and of the constitution of the Commonwealth, in the manner provided by section 6 of this act, shall be limited in time, such bank may, at any time before the expiration of such charter, obtain a new charter under this act in the following manner:

A special meeting of the stockholders shall be called, in the manner provided by clause (a) of section 86 of this act, or, when there are no stockholders, a special meeting of the trustees or managers shall be called as provided by law or by-law, for the purpose of considering and deciding whether application for a charter under this act shall be made. If, at such meeting, the holders of a majority of the stock, or a majority of the trustees or managers, as the case may be, of said bank shall decide in favor of such application, a majority of the directors, or of the trustees or managers, of the bank shall thereafter, and before the time when the charter of said bank expires, subscribe and acknowledge in duplicate the certificate of incorporation required by section 68 of this act, and attach thereto certified copies of such resolution and proof of notice of such meeting, and shall file said certificates, copies and proofs with the Commissioner and pay to the Commissioner a fee of one hundred dollars.

The Commissioner shall thereupon proceed to ascertain whether the provisions of the law have been complied with and shall also ascertain,

from the best sources of information at hand, and by such investigation as he may deem necessary, whether said bank is in good financial standing and repute, whether in the conduct of its affairs, so far as he officially knows, the said bank has conformed to the laws of the state, and his opinion whether the granting of a new charter under this act to said bank is consistent with the interests of the public.

If the Commissioner shall be satisfied as to the matters above enumerated, he shall forthwith so notify the bank in writing, and shall endorse his approval on said duplicate certificates of incorporation and shall transmit the same to the Governor, who if he shall approve the same, shall proceed as is provided by section 73 of this act; and the certificate of incorporation transmitted by the Governor to the recorder of deeds shall be recorded and indexed in the same manner as is provided by section 74 of this act; and from and after the date of such recording, the charter of said bank and its corporate rights and franchises shall be in law renewed and extended, with the same force and effect as though the bank had been incorporated under this act.

If the Commissioner shall disapprove such certificates of incorporation, he shall forthwith certify such disapproval to the Governor, stating fully and clearly his objections to the granting of the proposed charter, and shall forthwith furnish the bank with a copy of such objections. The bank may thereupon, but not later than thirty days after receipt of such copy, proceed by application for a writ of mandamus against the Commissioner to have the validity of said objections determined by the court according to the law, and if determined in favor of said bank, the court shall issue its writ of mandamus to the Commissioner, requiring him to issue his certificate in proper form in favor of the bank, whereupon the Governor shall proceed to issue letters patent as hereinbefore provided.

*Provided:* That any savings bank without capital stock, incorporated prior to 1874, the charter of which has been renewed from time to time by general or special legislation, where the right of perpetual succession was conferred by the original charter upon the managers, may apply for and receive a perpetual charter upon an application being made in the manner as provided in this section, without accepting the provisions of this act, and shall continue to be entitled to the privileges and benefits conferred in its original charter, but shall not be entitled to any of the benefits conferred by this act excepting the right of perpetual succession, unless and until it shall have duly accepted all the provisions of this act.

*Note:*—This section, which renders obsolete the existing laws as to renewal and extension of charters, is intended to bring all banks having twenty-year charters under the operation of this act as their charters from time to time expire. Under the amendment to Article XVI, section 11 of the Constitution, perpetual charters are made possible; and it is improbable that any bank which could obtain a perpetual charter under this act would desire a renewal for twenty years only.

This section provides a method of procedure assimilated to original proceedings for incorporation, and involves the repeal of section 4 of the act of 1876 (1 Purd. 400) and the act of April 26, 1889 (P. L. 61; 1 Purd. 420), so far as they relate to renewal and extension of charters, and of the act of May 10, 1889 (P. L. 185; 1 Purd. 421), so far as it relates to the renewal of charters of banks of discount, savings banks and trust companies.

**Section 8. Advertisements in Newspapers and Legal Periodicals.**—Whenever, under any of the provisions of this act, advertisement is required to be made in a newspaper or newspapers, such advertisement shall, unless otherwise provided, be made in a newspaper or newspapers of general circulation in the county, published in the city, borough or township where the banking house or other place of business of the corporation or person in question is located.

Whenever advertisement is required to be made in two newspapers, if there shall be, in the county, a legal periodical designated by the court of common pleas for legal advertisements, then such advertisement shall be made in one newspaper as aforesaid and in such legal periodical. If there be only one newspaper published in the city, borough or township and no such legal periodical be published in the county, publication in such one newspaper shall be sufficient. If there be no newspaper published in the city, borough or township, then the advertisement shall be made in a newspaper of general circulation in the county, published at the county seat, or, if none be there published, in the newspaper published nearest to said city, borough or township within the county, and in such legal periodical if any there be in the county. If there be no newspaper published in the county, then the advertisement shall be made in the newspaper published nearest to such city, borough or township in an adjoining county.

*Note:*—This section is intended to avoid repetition in the various sections by which advertisements are required. It is founded on the last part of section 4 of the act of 1876 (1 Purd. 400), with some revision and the addition of the provision as to legal periodicals.

**Section 9. Service of Notices.**—Except as herein otherwise provided, all written or printed notices required by this act shall be served either in the manner now or hereafter provided by law for the service of writs of summons except that service need not be made by the sheriff, or by mailing such notice by registered mail, return receipt requested, to any person required to be notified at his last known place of business or residence, as appearing on the records of the corporation, and to any corporation at its principal office or, if a foreign corporation, at the office of its duly authorized agent in this state.

*Note:*—This section, which re-enaets section 3 (b) of the Banking Department Act of 1919, is intended to avoid repetition. Where the advertising of notices is required, it is provided for in the sections dealing with the particular kinds of notices.

**Section 10. Fees of Public Officers.**—Whenever, under any of the provisions of this act, certificates or other documents are required



to be filed or recorded in the office of the prothonotary of any court of common pleas or in the office of any public official other than the Commissioner of Banking, such prothonotary or other official shall be entitled to receive therefor the same fees as are provided by law for similar services.

Note:—This is copied from section 3 (c) of the Banking Department Act of 1919.

#### Section 11. Preservation of Records.

(a) In General.—Every bank shall preserve, in such form and manner that they may be readily produced on proper demand, all its records of original or final entry, including cards used under the card system and deposit slips or tickets, for a period of twelve years from the date of making the same.

(b) Records of Dissolved Banks.—In case of the voluntary or involuntary dissolution of any bank, all of its books and records relating to any moneys paid or subject to payment into the state treasury under any law of this commonwealth relating to escheats shall be delivered to the Commissioner and retained by him as part of the records of the Banking Department.

Note:—This section is new.

#### Section 12. Evidence from Records of Bank.

(a) Whenever any evidence shall be required in any civil suit or proceeding, in any court of this commonwealth, from the book entries or other records of any bank doing business in this commonwealth at the time of such requirement, it shall be competent, upon five days' written notice to the opposite party, to produce verified copies of such entries or other records, which shall be received in such proceeding as prima facie evidence of such entries or other records; and a bank officer shall not be compelled to produce the original book or record, or attend as a witness thereto unless a party to such proceeding shall, at least forty-eight hours before the trial, file an affidavit that injustice will likely be done unless the original book or record is produced and serve a copy of such affidavit on the opposite party: Provided, That this section shall not apply to any suit or proceeding to which the bank is a party.

Note:—This is derived from sections 1 and 3 of the act of June 22, 1883 (P. L. 154: 2 *Purd.* 1509-10). The period of notice has been changed from ten days to five; the provisions have been extended to "other records" as well as "book entries;" and the provisions as to forty-eight hours notice of objection and service of copy of affidavit are new.

(b) To warrant admission in evidence of such copy, it must be shown by an affidavit or the testimony of an officer of the bank that the book or other record is one of the ordinary books or records of the bank used in the transaction of its business, that the entry is as

was originally made at the time of its date and in the usual course of business, that there are no interlineations or erasures, that the book or record is in the custody and control of the bank, and that the copy has been compared with the book or record and is a correct copy of the same; and such book or record shall be open to the inspection of any interested party.

Note:—This is a revision of section 2 of the act of 1883 (2 *Purd.* 1510.) Except for the inclusion of records other than books, the changes are in phraseology and not in substance.

**Section 13. Escheats.**—Every bank shall comply with the provisions of the laws of this commonwealth, now in force or hereafter enacted, relating to escheats.

Note:—If any reference to the subject of escheats is necessary in this Code, the above would seem to be sufficient.

The act of March 6, 1847 (*P. L.* 222; 4 *Purd.* 4369), relating to annual statements of unclaimed profits and dividends and the escheat thereof, was expressly repealed by the escheat act of June 7, 1915 (*P. L.* 878; 5 *Purd.* 5306), which, with its amendments, is the law now in force.

**Section 14. Foreign Banks.**—It shall not be lawful for any bank incorporated under the laws of any other state or country to receive any deposit or deposits or transact any banking business whatsoever in this commonwealth. Every corporation or person who shall in violation of this section be concerned in such receipt of deposits or transaction of banking business shall be subject to a penalty of one hundred dollars for each day during which any business shall be carried on, said penalty to be payable to the Commissioner and recoverable by him by action at law. In addition to said remedy, a court of competent jurisdiction may, on bill filed by the Commissioner, issue an injunction restraining such foreign bank from continuing to receive deposits or transacting a banking business in this commonwealth, and may make such other order or decree as equity and justice may require.

Note:—This takes the place of the last paragraph of section 1 of the act of February 11, 1895 (*P. L.* 4; 1 *Purd.* 411), establishing the Banking Department, and of section 2 of the act of March 28, 1808 (4 *Sm. L.* 537; 1 *Purd.* 447), which provides that no company incorporated under the laws of any other state "shall be permitted to establish within this commonwealth any banking-house or office of discount and deposit." The provision of section 1 of the act of 1895, which was re-enacted in section 4 of the Banking Department Act of 1919, was that no foreign corporation should receive deposits or transact banking business without first filing in the office of the Commissioner a certified copy of the statement required to be filed with the Secretary of the Commonwealth.

The penalty and the injunction provision of the new section are similar to those relating to branch banks in section 83 clauses (c) and (d) of this Code.

## ARTICLE II. BANKING DEPARTMENT.

**Section 15. Banking Department; Scope of Supervision; Powers; Duties.**—There shall continue to be a separate and distinct department known as the Banking Department, charged with the super-

vision of all the corporations and persons hereinafter described, and with the duty of taking care that the laws of this commonwealth in relation thereto shall be faithfully executed, and that the greatest safety to depositors therein or therewith and to other interested persons shall be afforded.

The said supervision, duties, and powers shall extend and apply to the following corporations now or hereafter incorporated under the laws of this state or under the laws of any other state, and authorized to transact business in this state, namely: all such corporations having power to receive and receiving money on deposit or for safe-keeping otherwise than as bailee, including all banks, banking companies, co-operative banking associations, trust, safe deposit, real estate, mortgage, title insurance, guarantee, surety and indemnity companies, savings institutions, savings banks and provident institutions. The said supervision, duties, and powers shall also extend and apply to mutual savings funds, building and loan associations, and corporations doing a safe-deposit business only.

The said supervision, duties, and powers shall also extend and apply to all national banking associations, located in this state, now or hereafter incorporated under the laws of the United States, which shall, in pursuance of Federal law or regulation, be granted a permit to act or shall act as trustee, executor, administrator, registrar of stocks and bonds, guardian of estates, assignee, receiver, committee of estates of lunatics, or in any other fiduciary capacity.

The said supervision, duties, and powers shall also extend and apply to all unincorporated banks except such as are exempted by clause (c) of section 127 of this act, and to all such individuals, partnerships, and unincorporated associations, as are or shall be by law made subject to the supervision of said department, and to any individuals or associations of individuals doing the business of co-operative banks or of building and loan associations, or a business in the nature of either, whether under the guise of a deed of trust or otherwise.

Note:—This re-enacts section 4 of the Banking Department Act of 1919, modifying the phraseology as to unincorporated banks, omitting the last paragraph of that section, which is covered by section 14 of this Code, and adding the reference to co-operative banks.

#### Section 16. Commissioner, Deputies and Employees.

(a) Commissioner.—The chief officer of the Banking Department shall continue to be known as the Commissioner of Banking. He shall be appointed by the Governor, by and with the advice and consent of the Senate, and shall hold his office for the term of four years and until his successor is duly qualified. Within fifteen days from the time of notice of his appointment, he shall take and subscribe the oath of office prescribed by the constitution and file the same in the office of



the Secretary of the Commonwealth, and shall also give to the Commonwealth a bond, in the penalty of fifty thousand dollars, with two or more individual sureties, or a corporate surety, to be approved by the Governor, conditioned for the faithful performance of all his duties. He shall receive an annual salary of ten thousand dollars.

Note:—This is section 5 (a) of the Banking Department Act of 1919, the only change being an increase of the salary of the Commissioner from eight to ten thousand dollars, to conform to increases granted at the session of 1919 to other state officers.

(b) Deputies.—The Commissioner shall appoint a first deputy, whose salary shall be six thousand dollars per annum, and may appoint a second and a third deputy, whose salaries shall be, respectively, five thousand and four thousand dollars per annum. The duties of all such deputies shall be such as may be assigned to them by the Commissioner, and each of them shall take, subscribe, and file the oath of office as herein prescribed for the Commissioner, and shall, whenever required by the Commissioner, give bond, in such amount and with such surety as may be prescribed by the Commissioner, conditioned for the faithful performance of the duties of such deputy.

Note:—This is section 5 (b) of the Banking Department Act of 1919, except that the salaries of the deputies are increased from five, four and three thousand dollars respectively to six, five and four thousand.

(c) Deputy Acting in Place of Commissioner.—Whenever the Commissioner, by reason of absence or incapacity, is unable to perform the duties of his office, or if a vacancy in the office of Commissioner occurs, the duties of the Commissioner shall be performed by the deputy next in authority, until such disability is removed or the vacancy filled.

Any deputy, before entering upon the performance of such duties, shall give to the Commonwealth a bond in the penalty of fifty thousand dollars, with two or more individual sureties, or a corporate surety, to be approved by the Governor, conditioned for the faithful performance of such duties while he is acting as Commissioner.

Note:—This is section 5 (c) of the Banking Department of 1919.

(d) Clerks, Examiners and Other Employees.—The Commissioner, with the approval of the Governor, shall employ, from time to time, such clerks, examiners, special agents, and other employees, as he may need to discharge in a proper manner the duties imposed upon him by law. They shall perform such duties as the Commissioner shall assign to them, and their compensation shall be fixed by him with the approval of the Governor. Each of such employees shall take, subscribe, and file the oath of office as herein prescribed for the Commissioner and deputy commissioners. Bonds shall be given to the Commonwealth by

such of said employees, in such amounts, and with such surety, as may be determined by the Commissioner, conditioned for the faithful performance of their duties.

Note:—This is section 5 (d) of the Banking Department Act of 1919.

(e) Cost of Bonds.—The cost of all bonds required by this section to be given by the Commissioner, the deputy commissioners, or any of the clerks, examiners or other employees of the Banking Department, shall constitute expenses of the department and shall be paid as hereinafter provided for such expenses.

Note:—This is section 5 (e) of the Banking Department Act of 1919.

(f) Prohibitions.—Neither the Commissioner nor any of his deputies, clerks, examiners, or other employees shall be interested as officer, director, trustee, manager, or stockholder, in any corporation subject to the supervision of the Banking Department, nor interested in any way in the business of any person subject to such supervision.

No deputy commissioner or examiner shall be appointed special deputy to assist in the liquidation of any corporation or person whose books, papers, and affairs he shall have examined within one year previous to the taking of possession by the Commissioner under the provisions of section 32 of this act.

No examiner shall receive a loan, nor shall the Commissioner or any of his deputies, clerks, examiners, or other employees receive a gift, directly or indirectly, of any sum of money or other valuable thing, from any corporation or person to whom this act applies, or from any director, officer, or employee thereof; and a violation of this prohibition shall constitute ground for the removal of such Commissioner, deputy, clerk, examiner, or other employee.

Note:—This is section 5 (f) of the Banking Department Act of 1919.

Section 17. Transfer of Powers and Duties to Commissioner.—All powers, rights, privileges, and duties heretofore by any law of this Commonwealth conferred or imposed upon the Auditor-General or the Secretary of the Commonwealth, in relation to any of the corporations or persons who, under the provisions of this act, are subject to the supervision of the Banking Department, are hereby transferred to, and conferred and imposed upon, the Commissioner, so far as the same relate to the supervision of such corporations and persons for the purposes of this act.

Note:—This is section 6 of the Banking Department Act of 1919.

Section 18. Records and Securities to Remain in Custody of Commissioner.—All books, papers, records, and securities which were



formerly in the office of the Superintendent of Banking and in the office of the Auditor-General, relating to the business of corporations and persons subject to the supervision of the Commissioner, and which were delivered and transferred to the Commissioner, shall be and remain in his charge and custody.

Note:—This is section 7 of the Banking Department Act of 1919.

**Section 19. Rooms at Capitol; Furniture.**—There shall be assigned to the Commissioner by the Commissioners of Public Grounds and Buildings a suitable room or rooms, at the capitol of the state, for conducting the business of the Banking Department; and the Commissioner shall, from time to time, with the approval of the commissioners aforesaid, procure the necessary furniture and other proper conveniences for the transacting of the said business, the expenses of which shall be paid, on the certificate of the Commissioner and the warrant of the Auditor-General, out of funds appropriated to the Commissioners of Public Grounds and Buildings.

Note:—This is section 8 of the Banking Department Act of 1919.

**Section 20. Maintenance of Banking Department.**

(a, Expenses.—All moneys derived by the Banking Department from fees, assessments, charges, penalties, and otherwise, shall be paid by the Commissioner into the state treasury for safe-keeping, and shall, by the State Treasurer, be placed in a separate fund, to be available for the use of the Banking Department upon requisition of the Commissioner. All such moneys, so paid into the state treasury, are hereby specifically appropriated to the Banking Department for the purpose of paying the salaries of the Commissioner, the deputy commissioners, the examiners, and the other employees of the department, and the expenses of the department, including the rental and furniture of such rooms or quarters as the Commissioner may deem necessary outside of the capitol.

The Auditor-General shall, upon requisition of the Commissioner, from time to time, draw warrants upon the State Treasurer for the amounts specified in such requisitions, not exceeding, however, the amount in such fund at the time of the making of any such requisitions.

Note:—This is section 9 (a) of the Banking Department Act of 1919, omitting the temporary provisions of the first paragraph of that clause and inserting after "rental" the words "and furniture," so as to provide that the furniture of branch offices of the Banking Department shall be paid for out of the department funds and not out of the funds appropriated to the Commissioners of Public Grounds and Buildings.

(b) **Assessment of Expenses upon Corporations and Individuals.**—All the expenses incurred in and about the conduct of the business of the Banking Department, including the cost of the regular examinations of corporations and persons under the supervision of the depart-

ment, the compensation of the Commissioner, deputy commissioners, examiners, and other employees of the department, (but excluding the furniture and conveniences mentioned in section 19 of this act), together with all other general or overhead expenses of the department, shall be charged to and paid by the corporations and persons subject to the supervision of the department, in equitable proportions, at such times, and in such manner, as the Commissioner shall by general rule or regulation annually prescribe:

Provided, however, That the charge for the examination of building and loan associations shall not exceed the sum of ten dollars for each one hundred thousand dollars, or fraction thereof, of assets of said building and loan associations, with a minimum charge to said building and loan associations of fifteen dollars.

The expenses incurred in connection with any special examination or investigation of any corporation or person, including a proportionate part of the salary of any examiner or other employee of the department engaged in such examination or investigation, shall be charged to and paid by such corporation or person.

On failure or refusal of any such corporation or person, after thirty days written notice, to pay any sum lawfully assessed or charged against it or him by the Commissioner under the provisions of this clause, the Commissioner may, at his option, bring an action at law to recover the same, or may take possession of the business and property of such corporation or person as provided in section 32 of this act.

Note:—This is section 9 (b) of the Banking Department Act of 1919, except that in the proviso the amounts have been changed from five and ten dollars to ten and fifteen dollars, respectively.

Section 21. Seal.—The seal now in use by the Commissioner shall continue to be the seal of the office of the Commissioner of Banking, and may be renewed when necessary. A description of the seal, with the impression thereof, and a certificate of approval of the Governor, shall remain on file in the office of the Secretary of the Commonwealth.

Note:—This is section 10 of the Banking Department Act of 1919.

#### Section 22. Copies of Documents.

(a) Admissibility of Contents.—Copies of all books, accounts, reports, and other papers or documents filed in the office of the Banking Department, certified under the hand and seal of the Commissioner, shall be admitted to be read in evidence in all courts of law and elsewhere in this Commonwealth, in all cases where the originals would be admitted in evidence: Provided, That in any proceeding, the court having jurisdiction may, on cause shown, require the production of the originals.

Note:—This is section 11 (a) of the Banking Department Act of 1919.

(b) Fees.—For every copy of any paper filed in the Banking Department, and for the certification thereof, except when such copy or certification is made for the benefit of a corporation or person subject to the supervision of the department under the provisions of this act, the Commissioner may charge such fees as he may by general rule or regulation prescribe.

Note:—This is section 11 (b) of the Banking Department Act of 1919.

(c) Prima Facie Evidence of Contents.—In any proceeding under the provisions of this act, a copy, duly certified by the Commissioner, of a duly instituted examination of the corporation or person involved in such proceeding, shall be prima facie evidence of the facts therein stated.

Note:—This is section 11 (c) of the Banking Department Act of 1919.

Section 23. Disclosure of Information Forbidden; Exceptions.—Neither the Commissioner nor any deputy, examiner or employee of the Banking Department shall, directly or indirectly, wilfully exhibit, publish, divulge, or make known, to any person or persons, any record, report, statement, letter, or other matter, fact, or thing, contained in said department, or ascertained from any of the same, or from any examination made under the provisions of this act, excepting in such manner as is expressly authorized by this act, and excepting when the production of such information in a proceeding in any court is duly required by subpoena issued by special order of the court, or other legal process; and any violation of the provisions of this section shall be a misdemeanor, upon conviction whereof the person so offending shall be sentenced to pay a fine not exceeding one thousand dollars, and shall be dismissed from his employment in said department: Provided, however, That the Commissioner, on the written request or consent of any corporation, authorized by resolution of its board of directors, or on the written request or consent of any person, under the supervision of the Banking Department, may discuss, with an advisory committee selected by the Commissioner, or selected by such corporation or person and acceptable to the Commissioner, such matters relating to the financial condition of such corporation or person as the Commissioner may deem pertinent to the rehabilitation thereof: And provided further, That the Commissioner may, on like request or consent, furnish to the Federal Reserve Board or to the Federal Reserve Bank of the district in which the banking house or other place of business of any corporation is located, copies of any reports or parts thereof, or any information in his possession, relating to such corporation, for the use of said board or bank.

Note:—This is section 12 of the Banking Department Act of 1919, with the addition of the provision as to selection of the committee by the bank.

Section 24. Department's Power to Examine and Inspect.—Every corporation and person included within the supervision of the Banking Department as set forth in section 15 of this act, together with all the property, assets, and resources of such corporation or person, shall be subject to inspection and examination by the Commissioner or his deputies, or any qualified examiner of the said department, when such examiner is authorized in writing, under the official seal of the department, by the Commissioner or a deputy commissioner, to make such examination and inspection.

Note:—This is section 13 of the Banking Department Act of 1919.

Section 25. Examinations.

(a) In General.—It shall be the duty of the Commissioner, at least once in each year, to examine or cause to be examined the books, papers and affairs of each and every corporation and person subject to the supervision of the Banking Department. The Commissioner may also, at any time, make such special investigation or examination as, in his opinion, the exigencies of any case may require. Whenever he shall deem it necessary or proper, he shall assign a qualified examiner or examiners to make any such examination or investigation, which examiner or examiners shall have power to make a thorough examination into all the business and affairs of the corporation or person in all departments, and all property, assets, and resources wherever situated, and, in so doing, to examine, under oath or otherwise, any of the officers, agents, employees or members of a corporation or person, or any corporation or person in possession of any assets of the corporation or person under examination. The examiner or examiners shall make a full and detailed report of the condition of the corporation or person under examination, or such special report as may be directed by the Commissioner.

*Provided*, That whenever any bank shall, by becoming a member of a Federal Reserve Bank, be subject to the examinations required by the Federal Reserve Act, the Commissioner may, in his discretion, accept such examinations in lieu of the examinations required by this section or by the laws of this Commonwealth.

Note:—This is section 14 (a) of the Banking Department Act of 1919, with some modification of language, except that an examination at least once every year of the books, papers and affairs of all corporations or persons subject to the supervision of the department has been substituted for an examination twice a year as to state banks, trust companies and unincorporated banks.

The proviso embodies the provisions of section 4 of the Act of July 17, 1917, P. L. 1021.

(b) Examinations under Oath.—The Commissioner and his deputies and any qualified examiner appointed by the Commissioner are hereby authorized and empowered to administer oaths or affirmations to any of the officers, agents, employees or members enumerated in



clause (a) of this section, and any wilful false swearing in any inquiry thereunder shall be perjury, and subject, upon conviction thereof, to the same punishment as is or may be provided by law, for the punishment of perjury. Upon failure of any of the individuals aforesaid to make answer to any such inquiry, the Attorney General, upon the request of the Commissioner, shall make information thereof to the court, whereupon said court, after hearing, shall make such order as the occasion requires.

Note:—This is section 14 (b) of the Banking Department Act of 1919, slightly modified in wording.

#### Section 26. Reports to Commissioner.

(a) In General.—Every corporation and person subject to the supervision of the Banking Department, except building and loan associations doing business exclusively within this state, shall make and render to the Commissioner not less than two or more than five reports of its or his condition during each year. The number, form, and manner of such reports shall be prescribed by the Commissioner by general rule or regulation. Every such report shall be verified by the oath or affirmation of the president, cashier, treasurer, or other managing officer in the case of a corporation or association, by a member of the firm in the case of a partnership, and by an individual banker in person. It shall be attested as correct by the signatures of at least three of the directors, trustees, or other managers of a corporation or association, and by the signatures of at least two of the members of a partnership.

Each such report shall exhibit, in detail and under appropriate heads, the resources and liabilities of the corporation or person at the close of business on any past day specified by the Commissioner, and shall be transmitted to him within five days or such further time as he may in his discretion allow, after the receipt of a request or requisition therefor from him.

Abstract summaries of two of said reports, designated by the Commissioner, in each year, except the reports of building and loan associations doing business exclusively within this state, shall forthwith be published by the corporation or person in a newspaper, and proof of such publication, verified by affidavit, shall be furnished to the Commissioner.

Building and loan associations doing business exclusively within this state shall, in the manner herein before provided, make and render one report during each year. No abstract summaries of such reports need be published.

The Commissioner shall also have power to call for a special report from any corporation or person under the supervision of the Banking Department, including building and loan associations, whenever, in

his judgment, the same may be necessary to a full and complete knowledge of its or his condition.

The reports and publications provided for in this clause shall be in lieu of all reports and of all publications for similar purposes heretofore required by law to be made.

Note:—This is section 15 (a) of the Banking Department Act of 1919, except that, in the last phrase of the first paragraph, "at least two" is substituted for "all".

(b) Failure to Make or Publish Reports.—Any corporation or person failing to make and transmit any report, to publish any report required by this act to be published, or to furnish any proof of publication required by clause (a) of this section, shall be subject, at the discretion of the Commissioner, to a penalty of not more than one hundred dollars, payable to the Commissioner, for each day after the time, or any extension thereof, fixed for filing such report, making such publication, or furnishing such proof. In case of failure or refusal to pay such penalty, the Commissioner may maintain an action at law to recover the same.

Note:—This is section 15 (b) of the Banking Department Act of 1919.

#### Section 27. Commissioner's Report to Governor —

The Commissioner shall make an annual report to the Governor setting forth:

I. A summary of the state and condition of every corporation and person from whom reports have been received during the preceding year, with such other information in relation to said corporations and persons as in his judgment may be useful.

II. A statement of the corporations and persons under the supervision of the Banking Department, whose business has been closed or taken in possession by the Commissioner during the preceding year, with such information relating thereto as he may deem useful.

III. Suggestions of amendments to the laws relating to corporations and persons under the supervision of the Banking Department by which the condition of such corporations and persons may be improved.

IV. The names and compensation of the deputies, examiners, clerks, and other employees of the Banking Department during the preceding year, the whole amount of the receipts and expenditures of the department during such year, and the method and basis of assessing such expenditures adopted by the Commissioner under the provisions of this act.

Note:—This is section 16 of the Banking Department Act of 1919.

**Section 28. Failure to Pay in Capital or Exercise Powers.**—When any corporation under the supervision of the Banking Department (a) has not paid in the capital as required by law; (b) has not in any manner exercised the powers conferred upon it by its letters patent within two years after the issuance thereof; or (c) has failed to exercise its corporate privileges for two years after having been liquidated, such corporation shall be returned by the Commissioner to the Attorney General, who shall proceed by quo warranto against such corporation, to the end that it may be ousted from its charter rights, and its corporate privileges be declared null and void.

Note:—This is section 17 of the Banking Department Act of 1919.

**Section 29. Violations of Charter.**—Whenever it shall appear to the Commissioner, from any report of condition of any corporation subject to the supervision of the Banking Department, or from any examination made by him of the condition of the affairs of such corporation, that such corporation has committed any violation of its charter, he shall, by an order under his hand and seal of office, direct the discontinuance of such illegal practice, and direct strict conformity with the provisions of the charter; and whenever any such corporation shall refuse or neglect to comply with any such order, the Commissioner shall communicate the facts to the Attorney General, who shall thereupon institute such proceedings as the nature of the case may require for appropriate relief or correction, or may proceed by quo warranto for forfeiture of the charter.

The court before which such proceedings shall be instituted shall have power to grant such orders, and, in its discretion, from time to time, modify or revoke the same, and to grant such relief and render such judgment as the facts or evidence in the case and the situation of the parties, and the interests involved shall require; or, if it shall appear to the said court that the interests of the public so require, shall decree a dissolution of such corporation and a distribution of its effects.

Note:—This is section 18 of the Banking Department Act of 1919.

**Section 30. Jurisdiction of Courts.**—Whenever it shall become the right or duty of the Attorney General to proceed against any corporation or person under the supervision of the Banking Department, pursuant to the provisions of this act, he may, in his discretion, proceed either in the court of common pleas of Dauphin county or in the court of common pleas of the county where the banking house or other place of business of such corporation or person is located.

Note:—This is section 19 of the Banking Department Act of 1919.

**Section 31. Orders by Commissioner.**—Whenever it shall appear to the Commissioner that any corporation or person under the supervi-

sion of the Banking Department has violated any provision of this act or any law regulating the business of such corporation or person, or is conducting business in an unauthorized or unsafe manner, or that any such corporation has an impairment of capital, the Commissioner may issue an order, under his hand and seal of office, directing such corporation or person to discontinue such violation of law or such unauthorized or unsafe practices, or directing such corporation to make good, within a time of not less than thirty days after notice, to be fixed by the Commissioner, any impairment or deficiency of capital.

Note:—This is section 20 of the Banking Department Act of 1919, except that the time for making good impairment of capital has been changed from sixty to thirty days, and the phraseology slightly revised.

Section 32. Power of Commissioner to Take Possession.—The Commissioner may, after hearing had upon notice given, with the approval and consent of the Attorney General, take possession of the business and property of any corporation or person subject to the supervision of the Banking Department, whenever it shall appear to him that such corporation or person:

I. Has violated any law regulating its or his business, and has persisted in such violation in disregard of an order duly made by the Commissioner;

II. Is conducting business in an unauthorized or unsafe manner, and has persisted in disregard of an order duly made by the Commissioner;

III. Is in an unsafe or unsound condition to continue business: Provided, in such case, That the Commissioner may forthwith, without such hearing and consent of the Attorney General, take possession of the business and property of any such corporation or person receiving moneys on deposit, when and if, in his opinion, the protection of depositors and the public requires such peremptory action;

IV. Has an impairment of capital, which has not been restored or made good within the time fixed by order of the Commissioner;

V. Has suspended payment of obligations;

VI. Has neglected or refused to comply with the terms of any lawfully issued order of the Commissioner;

VII. Has refused, upon proper demand, to submit the records and affairs of the business to the Commissioner, a deputy commissioner, or any duly authorized examiner or agent of the Banking Department;

VIII. Has refused to be examined upon oath or affirmation regarding such affairs;

IX. Has failed or refused, after thirty days notice, to pay any assessment or charge, as provided in this act;

X. Is in the hands of a receiver appointed by any court or in any



bankruptcy proceeding, or of an assignee or trustee for creditors appointed by such corporation or person.

Note:—This is section 21 of the Banking Department Act of 1919, with the addition of clause X.

Section 33. Certificate of Taking Possession.—When the Commissioner shall have duly taken possession of the business and property of a corporation or person as provided in section 32 of this act, he shall forthwith make, under his hand and official seal, a certificate setting forth that he has so taken possession, and shall file such certificate in his office, and cause a certified copy thereof to be filed in the office of the prothonotary, who shall index the same in the judgment index under the name of the corporation or person as defendant and the name of the Commissioner as plaintiff.

From and after the filing of such certified copy in the office of the prothonotary, the Commissioner shall supersede any receiver previously appointed by any court for, or any assignee or trustee for creditors appointed by, such corporation or person.

Such superseded receiver, assignee, or trustee shall forthwith file his account in the court having jurisdiction thereof, and pay over and deliver to the Commissioner all moneys, securities, assets, and property of such corporation or person in his custody, possession, or control. Said court shall allow credit for expenses and for the disbursements properly incurred or made prior to the taking of possession by the Commissioner, and shall allow proper compensation to said receiver, assignee, or trustee, and his counsel, which, when determined, shall be paid out of the funds of said corporation or person in the hands of the Commissioner.

Note:—This is section 22 of the Banking Department Act of 1919.

Section 34. Injunction to Restrain Commissioner.—Whenever the Commissioner takes possession of the property and business of any corporation or person, such corporation or person may, at any time within ten days, apply to the court for an order requiring the Commissioner to show cause why he should not be enjoined from continuing such possession. The Commissioner may be served personally, wherever found within the state, by leaving a copy with the deputy in charge of his office, or by serving the special deputy appointed by him in such proceeding. At the hearing, a copy, certified by the Commissioner, of any report of a duly instituted examination of such corporation or person shall be prima facie evidence of the facts therein stated; and if, from such report or reports or other evidence, there shall appear to be just cause

for the taking and continuing of possession by the Commissioner, he shall not be enjoined, unless such report or reports or other evidence shall be overcome by proper proof produced by such corporation or person, in which event the court shall direct the Commissioner to refrain from further proceedings and to surrender such possession.

Note:—This is section 23 of the Banking Department Act of 1919.

Section 35. Special Agents and Assistants.—The Commissioner may, by the certificate of taking possession provided for in section 33 of this act, or by a subsequent certificate in like manner made and filed, appoint one or more special deputies as agent or agents to assist him in continuing or liquidating the business and affairs of any corporation or person in his possession. He may, from time to time, delegate to such special deputy or deputies such duties connected with such continuation or liquidation as he may deem proper. He may employ such expert assistants, and may retain such of the officers and employees of such corporation or person, as he may deem necessary in the continuation of the business or the liquidation and distribution of the assets. He shall require such security as he may deem proper from his agents and assistants appointed pursuant to the provisions of this section.

Note:—This is section 24 of the Banking Department Act of 1919.

Section 36. Notice to Parties Holding Assets.—When the Commissioner shall have taken possession of the property and business of any such corporation or person, he shall forthwith give notice in writing of such fact to all corporations and persons holding any assets thereof. No one having such notice or actual knowledge that the Commissioner has so taken possession, shall have a lien or charge against any of the assets of such corporation or person for any payment, advance, or clearance thereafter made or liability thereafter incurred.

Note:—This is section 25 of the Banking Department Act of 1919.

Section 37. Inventory of Assets.—After the Commissioner has taken possession as aforesaid, he shall make, or cause to be made, a complete inventory of the assets of such corporation or person, which inventory shall be verified by oath or affirmation, and shall forthwith file such inventory in his office.

Note:—This is section 26 of the Banking Department Act of 1919, revised by striking out, after "affirmation," the words, "and certified by an executive officer in the case of a corporation or association, by a member of the firm in the case of a partnership, and by an individual banker in person."

Section 38. Suspension or Continuation of Business.—The Commissioner is authorized, upon taking possession of the property

and business of such corporation or person, to continue or suspend the business for such period as he may deem necessary to enable him to determine whether to liquidate the affairs of such corporation or person, and, during such period, to take such action as in his judgment is necessary to conserve the assets and business.

Note:—This is section 27 of the Banking Department Act of 1919.

**Section 39. Surrender of Possession by Commissioner.** - The Commissioner may, upon conditions approved by him, surrender possession for the purpose of permitting such corporation or person to resume business, to sell or convey its or his property and franchises, or to merge or consolidate its or his business with that of another corporation or person in accordance with the laws of this commonwealth; but he shall not authorize any decrease of capital stock by a corporation except upon compliance with the provisions of section 80 of this act.

Whenever the Commissioner shall surrender possession under the provisions of this section, he shall forthwith issue an order, under his official seal, authorizing such corporation or person to resume business, to sell or convey its or his property and franchises, or to merge or consolidate as aforesaid, and shall file said order in his office, and cause a certified copy thereof to be filed in the office of the prothonotary, who shall thereupon cause the entries upon the judgment index made pursuant to section 33 of this act to be cancelled.

Note:—This is section 28 of the Banking Department Act of 1919.

**Section 40. Status of Commissioner as Receiver.**—Except as herein otherwise provided, the Commissioner shall, when he has taken possession of the business and property of a corporation or person, have all the rights, powers, and duties of a receiver appointed by any court of equity in this commonwealth; and he shall be vested, in his official capacity, with all the property of such corporation or person, including debts due, liens or securities therefor, and rights of action or redemption.

He shall be the representative of the creditors of the corporation or person, and entitled, as such, to have vacated and set aside, for the benefit of the creditors, any judgment, execution, attachment, sequestration, payment, pledge, assignment, transfer, conveyance, or incumbrance, which could have been avoided by the creditors or any of them, or by which it is attempted to give any creditor unlawful preference over another.

He may, with leave of court obtained on petition after notice to all creditors of whom he has knowledge, surrender to the corporation or person any assets, including choses in action, whether the sub-

ject of pending proceedings or not, which are burdensome and of no advantage to creditors.

Note:—This is section 29 of the Banking Department Act of 1919.

Section 41. Power of Court to Make and Enforce Orders.—The court having jurisdiction shall have power to make and enforce any and all orders necessary and appropriate to enable the Commissioner to discharge his duties in connection with the business, property, and affairs of any corporation or person taken into possession by the Commissioner under the provisions of this act.

Note:—This is section 30 of the Banking Department Act of 1919.

Section 42. Continuance of Possession; Exceptions.—When the Commissioner shall have duly taken possession of the business and property of a corporation or person as provided in section 32 of this act, he shall hold such possession until the affairs of such corporation or person have been liquidated by him, unless:

I. He shall have been directed by order of court to surrender such possession pursuant to the provisions of section 34 of this act;

II. He shall have permitted a resumption of business, or a sale or conveyance of property and franchises, or a merger or consolidation, pursuant to the provisions of section 39 of this act;

III. The stockholders of such corporation, after payment of all creditors in full, shall have elected a trustee or trustees to continue the liquidation of such corporation, or the court shall have appointed such trustee or trustees, pursuant to the provisions of section 61 of this act, and such trustee or trustees shall have been duly qualified to take possession of the remaining assets of such corporation; or

IV. The depositors and other creditors of such person and the expenses of such liquidation shall have been paid in full.

Note:—This is section 31 of the Banking Department Act of 1919.

Section 43. Recording Certificate; Sales.

(a) Recording Certificate of Possession or Surrender.—When the Commissioner has taken possession of the business and property of a corporation or person, he shall, if there be any real property, file in the office of the recorder of deeds in each county of this state, or with the proper official in any other state or county, where any of such real property shall be situated, a certified copy of the certificate required by section 33 of this act, which copy shall be recorded in the deed book, and indexed in the grantor's index in the name of such corporation or person and in the grantee's index



in the name of the Commissioner, and shall also be registered with the proper authority empowered to keep a register of real estate, if any there be. And when the Commissioner has surrendered possession of the business and property of a corporation or person, he shall in the same manner file a certified copy of the order provided for by section 30 of this act, which shall be in like manner recorded, and shall be indexed in the name of the Commissioner as grantor and in the name of such corporation or person as grantee, and shall also be registered as aforesaid.

Note:—This is section 32 (a) of the Banking Department Act of 1919.

(b) Sales of Real and Personal Property.—The Commissioner may sell at public sale any or all of the real and personal property of such corporation or person without any order of court. He may, with leave of court, sell either real or personal property at private sale. At least ten days notice of any petition for leave to sell at private sale shall be given to all stockholders of such corporation, or to such person, and to all creditors known to the Commissioner; and such notice shall also be advertised at least once in a newspaper in the county where the banking house or other place of business is located, and, when the land is situated in a different county, at least once in a newspaper published in the latter county.

Note:—This is section 32 (b) of the Banking Department Act of 1919.

(c) Sales of Real Estate Outside of the County.—When any real property of such corporation or person is situated in a county other than that where the banking house or other place of business is located, a petition for leave to sell such property at private sale shall be filed in the court having jurisdiction of the liquidation proceedings, which court, if satisfied of the propriety of such sale, shall make an order or decree authorizing the Commissioner to sell such real property or so much thereof as the court may designate. Thereupon it shall be the duty of the court of common pleas of the county wherein the real property so designated is situated, on petition of the Commissioner, to make an order for the sale of said property or so much thereof as the court having jurisdiction of the liquidation proceedings shall have designated; and the Commissioner shall in all cases make a return of the sale to the court of the county in which the real property is situated. If the same be approved by said court, it shall be confirmed, and a certified copy of the return and of the decree of confirmation shall be filed in the court having jurisdiction of the liquidation proceedings.

Note:—This is section 32 (c) of the Banking Department Act of 1919.

(c) **Sale of Listed Securities.**—Listed securities may be sold on the stock exchange, with leave of court obtained on petition of the Commissioner, at such time or times, and in such manner, as may be determined by the court. No notice to creditors of such petition shall be necessary unless required by court.

**Note:**—This is section 32 (d) of the Banking Department Act of 1919.

(e) **Effect of Sale upon Liens.**—When any real property of such corporation or person is subject to liens which under the laws of this commonwealth would be discharged by a judicial sale, the same shall not be affected by a sale by the Commissioner unless such sale be made pursuant to an order of court directing that liens be discharged thereby and after notice to all creditors having or claiming liens; and, in such event, the proceeds of the sale shall take the place of the property sold, and be distributed to the parties entitled thereto.

If such real property is situated in a county other than that where the banking house or other place of business is located, a petition for leave to sell discharged of liens shall be filed in the court having jurisdiction of the liquidation proceedings, which court, if satisfied of the propriety of such sale, shall make an order or decree authorizing the same; and thereupon it shall be the duty of the court of common pleas of the county where such property is situated to make an order for the sale thereof, discharged of liens. Returns of such sale shall be made to the latter court. If the sale be approved by that court, it shall be confirmed, and a certified copy of the return and of the decree of confirmation shall be filed in the court having jurisdiction of the liquidation proceedings, which court shall also make distribution of the proceeds of such sale to the parties entitled thereto.

**Note:**—This is section 32 (e) of the Banking Department Act of 1919.

**Section 44. Execution of Deeds and Documents.**—The Commissioner may execute, acknowledge, and deliver any and all deeds, assignments, bills of sale, releases, extensions, satisfactions, and other instruments necessary and proper to effectuate any sale, lease, or transfer of real or personal property, or to carry into effect any power conferred or duty imposed upon him by this act or by order of court. Any instrument executed pursuant to the authority hereby given shall be as valid and effectual for all purposes as though the same had been executed by the officers of such corporation by authority of its board of directors, or by such person individually.

**Note:**—This is section 33 of the Banking Department Act of 1919.

**Section 45. Compromises.**—The Commissioner may, with leave of court, compound or compromise any debt or claim due to the corpora-

tion or person, and discontinue any action or other proceeding pending therefor, if done in good faith and after proper inquiry; and, upon payment of the amount due, may require all mortgages, conditional contracts, pledges, and liens, of or upon any real or personal property of such corporation or person, to be satisfied, cancelled, or assigned to him, as he may deem best, or he may sell the property subject thereto.

Note:—This is section 34 of the Banking Department Act of 1919.

Section 46. *Actions and Suits.*—For the purpose of executing any of the powers and performing any of the duties hereby conferred and imposed upon him, the Commissioner may, in the name of the corporation or person, prosecute and defend any and all actions and proceedings at law, in equity, or otherwise, pending at the time when the Commissioner takes possession of the business and property of such corporation or person.

He may, by bill of discovery or other legal or equitable proceeding, obtain information of, and sue for and recover, any assets, debts, or damages, which such corporation or person might sue for and recover, or which any of the creditors might make available for the payment of their claims.

He may, at any time while he is in possession of the property and business of a corporation, institute and maintain against the directors, trustees, managers, or officers, any action or proceeding which is vested in such corporation or in the stockholders or creditors thereof.

He shall be liable to suit, in his representative capacity, by any person seeking to recover specific property, if such property could have been recovered as against the creditors of the corporation or person levying an execution thereon.

Note:—This is section 35 of the Banking Department Act of 1919.

Section 47. *Judgments Not to be Liens; Stay of Executions.*—A lien shall not attach to any of the property or assets of the corporation or person by reason of the entry of any judgment against such corporation or person after the Commissioner has taken possession of its or his property and business and filed a certificate as required by section 33 of this act, and so long as such possession continues.

During such time, no execution or attachment shall issue against such corporation or person, nor shall any pending execution or attachment be proceeded with, except by special leave of the court.

Note:—This is section 36 of the Banking Department Act of 1919.

Section 48. *Enforcement of Individual Liability of Stockholders.*—Whenever the stockholders of a corporation whereof the Commis-

sioner shall have taken possession are liable in double the amount of the value of the stock held by them, and the Commissioner has determined from his examination of the affairs of the corporation that the reasonable value of its assets is not sufficient to pay its creditors in full, he may enforce the individual liability of such stockholders to such extent as may be necessary.

If he determines to enforce such liability, he shall make demand in writing upon such stockholders by causing the same to be mailed by registered mail to the respective stockholders at their last known places of address as the same appear on the stock ledger of the corporation, or at their last known addresses if no addresses appear in such ledger. Such demand shall state the total amount assessed by the Commissioner against the stockholders, and the pro rata share assessed against the particular stockholder addressed, and the total sum to be paid by such stockholder. The demand shall also fix a date, not less than thirty days after the date of such demand, on which the stockholders shall be required to pay such assessment to the Commissioner.

If any stockholder shall fail or refuse to pay such assessment within such time, the Commissioner shall have a cause of action either at law or in equity against such stockholder, either severally or jointly with other stockholders, for the amount of such assessment, together with interest from the date when the same was due and payable. In any such action, the written statement of the Commissioner, under his hand and seal of office, reciting his determination to enforce the individual liability, or any part thereof, of such stockholders, and setting forth the value of the assets of the corporation and its liabilities, as determined by him after examination and investigation, shall be prima facie evidence of such facts as therein stated.

Note:—This is section 37 of the Banking Department Act of 1919.

Section 49. Inventory and Appraisement: Statement of Liabilities.—When the Commissioner has determined to liquidate the affairs of any such corporation or person, he shall forthwith cause an inventory and appraisement of the assets of such corporation or person, under oath or affirmation, to be made in duplicate by two disinterested appraisers chosen by him, and shall file such inventories and appraisements, accompanied by a complete statement, certified by him, of the liabilities of such corporation or person so far as he has been able to ascertain the same, one in his office and the other in the office of the prothonotary.

Note:—This is section 38 of the Banking Department Act of 1919.

Section 50. Procedure as to Property in Safe-Deposit.—After taking possession as aforesaid, the Commissioner may give written



notice to anyone claiming, or appearing on the books of the corporation or person, to be owner of any personal property left in the possession of such corporation or person as bailee or depositary for hire, or the lessee of any safe, vault, or box, notifying such bailor or lessee to remove all such personal property within a period of not less than sixty days.

At the expiration of such period, if such property has not been removed, the Commissioner may proceed as the corporation or person might have proceeded as provided in the contract of bailment or lease, or, at his option, may cause any such safe, vault, or box to be opened in his presence or the presence of his special deputy, and of a notary public not an officer or employee of the corporation or person or of the Banking Department, and the contents, if any, of such safe, vault, or box shall be sealed and marked by such notary with the name and address of the bailor or lessee in whose name such safe, vault, or box stands upon the books of the corporation, or person, and a list of the property therein shall be attached thereto. Such package, so sealed and addressed, shall be removed by the Commissioner to his office, and there preserved until delivered to the owner or otherwise disposed of in accordance with law.

After the service or mailing of the notice as aforesaid, the contract of bailment or leasing, if any, shall cease and determine upon the date for removal fixed by said notice, and the amount of unearned rent or charges, if any, paid by the bailor or lessee, shall become a debt of the corporation or person. All contracts of bailment or lease, such as aforesaid, made after the date of the approval of this act, shall be subject to the provisions of this section.

Note:—This is section 39 of the Banking Department Act of 1919.

#### Section 51. Trust Funds.

(a) Taking Possession by Commissioner.—Whenever the Commissioner takes possession of the business and property of a corporation or person in accordance with the provisions of this act, he shall also take possession of all funds, property, and investments held by such corporation or person in any fiduciary capacity, but shall keep the same separate and apart from the assets thereof.

Note:—This is section 40 (a) of the Banking Department Act of 1919.

(b) Substituted Fiduciaries.—Upon determining to liquidate the affairs of such corporation or person, the Commissioner shall forthwith give written notice to all parties interested in any such funds, property, or investments held in a fiduciary capacity, so far as such notice is practicable, requiring them within thirty days to apply to the proper court or official for the appointment of substituted fiduciaries to take the place of such corporation or person. On the failure

or neglect of the parties so notified to make such application within the time designated, or in case the parties in interest can not be notified, the Commissioner shall himself apply for such appointment of substituted fiduciaries.

Note:—This is section 40 (b) of the Banking Department Act of 1919.

(c) Settlement without Accounting.—In any instance where there shall be no dispute as to the amount or identity of such funds, property, or investments, and all parties in interest are sui juris and so request in writing, the Commissioner may, without the filing of an account, transfer, pay over, and deliver to such substituted fiduciary all funds, property, and investments of the particular trust, taking from such parties and such substituted fiduciary a receipt and release in full, which shall discharge the Commissioner and such corporation or person from any further liability in the premises.

Note:—This is section 40 (c) of the Banking Department Act of 1919.

(d) Jurisdiction of Disputes as to Identity of Trust Fund.—In any instance where there shall be a dispute as to the identity of alleged trust funds, property, or investments, either because the same have become or are alleged to have become mingled with other funds, property, or investments, or otherwise, the court having jurisdiction of the liquidation proceedings shall have exclusive jurisdiction to determine such dispute.

Note:—This is section 40 (d) of the Banking Department Act of 1919.

(e) Accounting.—In all other instances, the Commissioner shall, with the least possible delay, prepare and file in the courts having jurisdiction thereof the accounts of such corporation or person in such fiduciary capacities, and shall transfer, pay over, and deliver the balances determined upon such accounts to be due in accordance with the orders and decrees of such courts.

Note:—This is section 40 (e) of the Banking Department Act of 1919.

(f) Deficiencies and Surcharges.—In any instance where it shall be ascertained by such court that there is a deficiency in any such trust funds, property, or investments for which such corporation or person is liable, or that such corporation or person is liable to surcharge in respect thereof, the amount thereof shall constitute an unpreferred claim against the general funds in the hands of the Commissioner, and the order or decree of such court shall be conclusive, subject to appeal, as to the amount of such claim. Should the existence or amount of any deficiency or surcharge or the liability of the corporation or person therefor be undetermined at the time of any distribution of such general funds, it shall be the duty of the court

ordering such distribution to set apart and withhold from such distribution a sufficient amount to pay the proportionate dividend upon such undetermined claim until the same shall have been finally adjudicated.

Note:—This is section 40 (f) of the Banking Department Act of 1919.

**Section 52. Notice to Depositors and Creditors.** - When the Commissioner shall have determined to liquidate the affairs of such corporation or person, he shall forthwith give written or printed notice to all depositors to produce to him their deposit or pass books for settlement, stating in such notice the amount which the books of the corporation or person show to be due to each depositor, subject to outstanding checks, and notifying such depositors that, unless a settlement of the deposit or pass books shall show a different amount to be due, or unless a depositor shall, within four months from the date of such notice, make proof, in the manner hereinafter set forth, that the amount due to him differs from the amount as shown by the books of the corporation or person, the amount last mentioned will be conclusive as to the amount of the claim of such depositor, subject, as aforesaid, to any outstanding checks.

The Commissioner shall, at the same time, give written or printed notice to all creditors other than depositors, so far as known to him, to make proof of their claims in the manner hereinafter set forth, within four months from the date of such notice, or be debarred from coming in upon the fund.

He shall also advertise such notices to depositors and other creditors in a newspaper, once a week for four successive weeks.

Note:—This is section 41 of the Banking Department Act of 1919.

**Section 53. Proof of Claims of Creditors.** - No claim other than the claim of a depositor shall be allowed unless the claimant, or someone for him if he cannot do so, shall furnish to the Commissioner a statement of his claim, together with a copy of any book entries pertaining thereto, or any note or other writing evidencing the same, verified by an affidavit in substantially the following form:

"I. (name of claimant), do solemnly swear (or affirm) that the above is a true statement of my claim against (name of corporation or person); that there are no credits or allowances against the same except as therein set forth; that I have not directly or indirectly made or entered into any bargain, arrangement, or agreement, express or implied, to take or receive, directly or indirectly, any money, property, or consideration whatever, to or for myself, or to or for any other person, firm, or corporation whatever, other than my dividend as a creditor, and that there is no collateral security for

said indebtedness, or any part thereof, held by me or anyone else, other than as above set forth."

In case the claimant shall be a partnership or corporation, such affidavit shall be made by a member of the partnership or by the treasurer or assistant treasurer of the corporation claimant, and the form thereof shall be modified accordingly.

The provisions of this section shall not apply to the claims of cestuis que trust or others to or against trust funds or property in the custody, possession, or control of a corporation or person, possession of whose business and property is taken by the Commissioner under the provisions of this act.

Note:—This is section 42 of the Banking Department Act of 1919.

Section 54. Proof of Claims of Depositors.—When proofs of claims by depositors are necessary under the provisions of section 52 of this act, the same shall be in such form as the Commissioner shall prescribe, and shall, on request of any such depositor, be prepared by the special deputy in charge of the affairs of the corporation or person in question, and the affidavits thereto shall be taken by him without charge.

Note:—This is section 43 of the Banking Department Act of 1919.

Section 55. Allowance of Claims.—If such claim and affidavit, when required, are in proper form, and if the amount claimed by a depositor or other creditor agrees with the amount shown by the books of the corporation or person, or if, upon consultation with the claimant and such corporation or person, the amount is ascertained to the satisfaction of the Commissioner, the claim shall be allowed if presented within the time limited by the notice as aforesaid, unless objected to in the manner hereinafter provided

Note:—This is section 44 of the Banking Department Act of 1919.

Section 56. Partial or Final Account; Objections.—At the expiration of the time fixed by the notice and advertisement for the presentation of claims prescribed in section 52 of this act, the Commissioner may file a partial or final account, consisting of a statement of receipts and expenditures, together with a list of the claims which have been allowed, and, separately, a list of the claims which have been objected to or are disputed, showing, as to all claimants, the names, addresses, and amounts.

If no account is filed within a year from the time when the Commissioner takes possession, any party interested may petition the court for an order on the Commissioner requiring the filing of an account.



Any account filed by the Commissioner shall be duly verified by him under oath or affirmation. Upon the filing thereof, he shall give written or printed notice to all the depositors and other creditors known to him of such filing, and that, unless objections shall be filed within thirty days from the date thereof, the same will be confirmed absolutely. He shall also, at the same time, advertise such notice in two newspapers once a week for four successive weeks.

During such period of thirty days any depositor, other creditor, stockholder, or anyone having any interest, may file in the court objections in writing to said account or to the allowance of any of said claims, a copy of which objections shall forthwith be served upon the claimant whose claim is objected to, or his counsel, and upon the Commissioner, or his counsel, or the special deputy appointed by him in such proceeding.

**Note:**—This is section 45 of the Banking Department Act of 1919.

**Section 57. Distribution.**—If, at the expiration of said period of thirty days from the filing of the account, no objections shall have been filed thereto, the same shall be confirmed absolutely, and the Commissioner shall prepare and file a schedule of distribution in accordance with the priorities fixed by law. Said schedule shall be subject to the approval of the court, and in accordance therewith, when so approved, a partial or final dividend, as the case may be, shall be declared and paid by the Commissioner. In case there shall be any disputed claim or any claim to which objections shall have been duly filed, the dividend shall be calculated as if all claims were valid and approved, and, after deducting and setting apart such portion of the dividend as represents claims which are disputed or objected to, the balance shall be distributed among the other claims. If all or any of the claims disputed or objected to shall thereafter be determined to be valid, they shall then receive their portions of such dividend. If all or any of such claims shall be determined to be invalid, the portions of such dividend set apart to them shall be distributed to the valid claims.

**Note:**—This is section 46 of the Banking Department Act of 1919.

**Section 58. Conclusiveness of Confirmation and Distribution.**—The confirmation of a partial account and distribution thereunder as aforesaid shall be conclusive only as to the fund distributed, and shall not prevent the proof and allowance, out of the fund involved in any subsequent account, of claims not presented in time for allowance out of such previous fund.

**Note:**—This is section 47 of the Banking Department Act of 1919.

Section 59. Hearing and Decision of Matters in Controversy.—If there shall be claims disputed or objected to, or if there shall be objections to the account, the court shall itself, without delay, hear and decide the matters in controversy. The court shall fix a time and place for the hearing, of which three weeks' written notice shall be given to the Commissioner, and to the corporation or person, and to all depositors and other creditors whose claims have been filed as aforesaid. Said notice shall also set forth that all parties whose claims are disputed or objected to must appear at said time and place and prove their claims or be debarred from coming in upon the fund for distribution.

Note:—This is section 48 of the Banking Department Act of 1919.

Section 60. Expenses to be Paid out of Fund.—All assessments, charges, and penalties due to the Banking Department by such corporation or person, all expenses of the taking and maintaining possession of the business and property or the continuing of the business by the Commissioner, and all expenses of liquidation under the provisions of this act, shall first be payable out of the funds of such corporation or person, including the compensation of special deputies, assistants, and other employed by the Commissioner to assist him in such proceedings, the allowance of all such expenses to be subject to the approval of the court.

Note:—This is section 49 of the Banking Department Act of 1919.

Section 61. Distribution of Balance; Liquidating Trustees.—If, after the filing and confirmation of the final account of the Commissioner, and the payment of all creditors in full, and the return to stockholders, who have paid to the Commissioner the amounts demanded pursuant to section 48 of this act, of their pro rata shares of any such amounts not necessary to pay creditors in full, there shall remain a balance in the hands of the Commissioner, he shall call a meeting of the stockholders by serving written or printed notice upon them at least thirty days before the day fixed for the meeting.

At such meeting, the stockholders shall elect by ballot a trustee or trustees for the purpose of completing the liquidation. A majority of the stock present in person or by proxy shall be necessary to elect. Should the stockholders fail or refuse to elect, the Commissioner or any stockholder may petition the court for the appointment of such a trustee or trustees, who, when appointed, shall give bond to the Commonwealth, in such amount, with such surety, and on such conditions, as the court may direct.

When such trustee or trustees have been duly elected or appointed as aforesaid, the Commissioner shall then transfer, convey, and deliver to such trustee or trustees all the assets of the corporation then

remaining in his hands. He shall thereupon be discharged from all further liability to such corporation and its creditors, and shall file a certified copy of the proceedings of said stockholders' meeting in his office, and cause a certified copy thereof to be filed in the office of the prothonotary. No powers subject to the supervision of the Banking Department shall thereafter be exercised by such corporation, except by permission of the Commissioner, and after compliance by such corporation with all the requirements of law as to a new corporation desiring to exercise such powers.

Note:—This is section 50 of the Banking Department Act of 1919.

### ARTICLE III.—PROVISIONS RELATING TO INCORPORATED BANKS.

Section 62. Requisite Amount of Capital.—No corporation shall be organized under this act to carry on the business of a state bank with a capital of less than two hundred thousand dollars, or to carry on the business of a trust company with a capital of less than three hundred thousand dollars, except that state banks with a capital of not less than fifty thousand dollars and trust companies with a capital of not less than two hundred thousand dollars may, with the approval of the Commissioner, be organized in any city, borough or township, the population of which exceeds five thousand inhabitants but does not exceed fifty thousand inhabitants, and except that state banks with a capital of not less than twenty-five thousand dollars and trust companies with a capital of not less than one hundred thousand dollars may, with the approval of the Commissioner, be organized in any borough or township, the population of which is less than five thousand inhabitants.

The population of any city, borough or township shall, for the purposes of this section, be ascertained according to the United States census last preceding the date of the application for incorporation.

Note:—This is founded on the provisions of the National Bank Act (see, 5138 U. S. Rev. Stat., as amended in 1909), the difference being that under the Federal Act the required capital in places having a population between three thousand and six thousand inhabitants is fifty thousand dollars.

As to state banks, this section takes the place of the first part of section 5 of the act of 1876 (1 Purd. 400), as amended by section 1 of the act of May 3, 1909 (P. L. 412; 5 Purd. 5341). As to trust companies, a capital of not less than one hundred and twenty-five thousand dollars is required for all trust companies by the present law: Proviso to section 1, act of May 9, 1889 (P. L. 159; 4 Purd. 4761); section 2, act of June 27, 1895 (P. L. 399; 2 Purd. 1672).

Section 63. Existing Banks or Trust Companies Having Capital Less than Minimum Required by This Act.—Any state bank or trust

company in existence at the date of the approval of this act, the capital of which is less than the minimum required by this act for the incorporation of a state bank or trust company in the city, borough or township where the principal place of business of such state bank or trust company is located, may continue to do business with its present capital: Provided, That it shall not be entitled to any of the benefits of this act unless it shall increase its capital, out of surplus or otherwise, to an amount equal to said minimum in accordance with the provisions of section 79 of this act, or unless it shall credit to the surplus fund at the close of each dividend period one-half of its net earnings until the capital and surplus fund shall together equal twenty-five per cent. more than such minimum; and no such state bank or trust company shall declare, credit or pay any dividends to its stock holders for any dividend period until it shall have increased its capital as aforesaid or made such credit to its surplus fund for that period; and when the capital and surplus fund shall equal twenty-five per cent. more than said minimum as a result of crediting half of the net earnings to the surplus fund as aforesaid, a sufficient portion of the surplus shall be converted into capital, by proceedings for increase of capital stock in accordance with section 79 of this act, to make the capital equal to the minimum.

Note:—This new section provides alternative methods by which existing banks having a capital smaller than that required by the Code may comply with the new standard and bring themselves within the benefits of this act.

Section 64. Capital Stock to be Paid in Full.—No charter shall be granted to any state bank or trust company organized under this act until the whole of its capital shall be paid in to the persons named in the certificate of incorporation as the board of directors for the first year, who shall certify such payment to the Commissioner.

Note:—This takes the place of section 9 of the act of 1876 (1 Purd. 401), which requires only 50 per cent. of the capital to be paid in before a bank commences business, and permits payment of the remainder in monthly installments of at least ten per cent. of the whole amount of the capital.

Section 65. Advertising Capital in Excess of Real Amount.—No bank shall advertise by newspaper, letterhead or in any other manner a larger capital than has actually been paid in; nor shall any bank, after a decrease of its capital stock, continue in any manner to represent or hold out to the public or to its customers that the amount of its capital stock remains as it was before such decrease. Any bank violating the provisions of this section shall be subject to a penalty of one hundred dollars for each day during which such advertising, representation or holding out shall continue, said penalty to be payable to the Commissioner and recoverable by him by action at law.

Note:—This section is new.



**Section 66. Par Value of Capital Stock.**—The capital stock of every bank shall be divided into shares of a par value of not less than fifty dollars each. Any bank whose capital stock is now or hereafter may be divided into shares of a greater par value than fifty dollars may, by vote of a majority of its stockholders, decrease the par value of its shares to any desired amount not less than fifty dollars and correspondingly increase the number of shares: Provided, That the capital stock shall not thereby be increased or decreased.

**Note:**—The first sentence is derived from section 5 of the act of 1876 (1 Purd. 400), amended by section 1 of the act of May 3, 1909 (P. L. 412; 5 Purd. 5341). The remainder of the section is founded on section 1 of the act of June 4, 1879 (P. L. 94; 1 Purd. 419), with changes of wording for the purpose of clearness. Trust companies and savings banks having capital stock are included. Section 2 of the act of June 11, 1885 (P. L. 111; 4 Purd. 4829), relating to trust companies, permits the change of par value of stock to one hundred dollars per share.

**Section 67. Incorporators.**

(a) **State Banks and Trust Companies.**—A corporation for carrying on the business of a state bank or trust company may be formed, under the provisions of this act, by any number of persons, not less than three, a majority of whom shall be citizens of the United States and bona fide residents of the Commonwealth of Pennsylvania.

**Note:**—This is founded on the first part of section 1 of the act of 1876 (1 Purd. 399), with the addition of the provision as to citizenship.

The requirements of that act as to articles of association are omitted, since the certificate of incorporation, hereinafter provided for, and the filing and approval of the by-laws, make articles of association superfluous. For the same reason, that part of section 5 of the act of 1876 is omitted, which provides that “no change shall be made in the articles of association by which the rights, remedies or securities of the existing creditors of the association shall be impaired.”

Trust companies, which at present are incorporated under the general corporation act of 1874 and its amendments, are hereafter to be organized under this Code in the same manner as state banks.

(b) **Savings Banks.**—A corporation for the encouragement of saving money, intended to be a savings bank, may be formed under the provisions of this act by any number of persons, not less than fifteen, at least two-thirds of whom shall be citizens of the United States and bona fide residents of the Commonwealth of Pennsylvania, and of the county where the proposed bank is to be located.

**Note:**—This takes the place of section 1 of the Savings Bank Act of May 20, 1889 (P. L. 246; 1 Purd. 452), increasing the number of incorporators from thirteen to fifteen and adding the requirements as to citizenship. The provisions relating to articles of association are omitted for the reason stated in the note to clause (a) of this section.

**Section 68. Certificate of Incorporation.**—The persons desiring to form a corporation under the provisions of this act shall, under their hands, make duplicate certificates of incorporation, which shall specify:

I. Name of the proposed corporation.

II. Location or place of business, particularly designating the county, and the city, borough or township, with the population thereof according to the last preceding United States census, together with the street number or other local designation in the city, borough or township, of the place of business.

III. In the case of a proposed bank having capital stock, the amount of the capital stock, the number of shares into which divided, the par value thereof, and that the same has all been subscribed in good faith, and a statement of all expenses connected with the organization of the bank and the sale of such stock.

IV. The term of existence of the proposed corporation, which may be perpetual.

V. The names, occupations, citizenship, place of residence and post office addresses of the incorporators and, unless the corporation is to be a savings bank without capital stock, the number of shares subscribed for by each.

VI. In the case of a proposed bank having capital stock, the number of directors and the names and places of residence of the directors agreed upon for the first year; and, in the case of a proposed savings bank without capital stock, a declaration that each incorporator will accept the responsibilities and faithfully discharge the duties of a trustee in such institution when authorized according to the provisions of this act.

VII. A statement that such certificate is made to enable the persons to form a corporation for banking, trust company, or savings bank purposes under this act.

This certificate shall be acknowledged before any person authorized to take acknowledgments of deeds in this state and the acknowledgment shall be certified and authenticated by the official seal of such person.

Note:—This is founded on section 2 of the act of 1876 (1 Purd. 399) and part of section 2 of the Savings Bank Act of 1889. In clause II, "township" is substituted for "village" and the provision as to population added. In clause III, the words after "divided" have been added. Clause IV is new. In clause V the word "occupations" is derived from the Savings Bank Act, the word "citizenship" is new, and "incorporators" and "subscribed for" have been substituted for "shareholders" and "held by." The first part of clause VI is new and the last part is derived from the Savings Bank Act. Clause VII is founded on clause V of the act of 1876.

Acknowledgment before anyone authorized to take acknowledgments of deeds is substituted for acknowledgment before a judge or notary public. The provisions as to filing and recording the certificate and as to certified copies thereof are covered by later sections of this Code.

Section 69. Advertisement of Application for Charter.—When application shall be made for the incorporation of a bank by filing the duplicate certificates of incorporation with the Commissioner as provided in section 70 of this act, the persons making such applica-

tion shall forthwith cause a notice thereof to be advertised in two newspapers and shall continue such advertisement, once a week, for three weeks. The notice shall specify the name and style of the proposed corporation, the location, the specific object for which it is to be created and the amount of the capital, except in the case of a proposed savings bank having no capital stock.

Note:—This takes the place of part of section 4 of the act of 1876 (1 Purd. 400) and of section 5 of the act of 1889 (1 Purd. 453). Provision is made for beginning the advertising when the application is made and continuing it for three weeks only, instead of advertising for three months before making the application, and for publication in the city, borough or township instead of in the county. The provisions of both acts as to the newspapers in which the notice is to be published are covered by section 8 of this act.

The provisions of section 4 of the act of 1876 as to proceedings for renewal of charter and for increase of capital are covered in later sections.

**Section 70. Filing Certificate; Payment of Fee and Bonus; Investigation by Commissioner.** - The duplicate certificates of incorporation, together with two certified copies of the proposed by-laws of the corporation, which by-laws shall contain proper provisions for their own amendment, shall be filed with the Commissioner for his inspection and approval; and at the same time the incorporators shall pay to the Commissioner a fee of one hundred dollars.

The Commissioner shall thereupon proceed to ascertain whether the provisions of the law have been complied with, and shall also ascertain, from the best sources of information at his command and by such investigation as he may deem necessary:

(a) Whether the name of the proposed corporation is likely to mislead the public as to its character or purpose, or is the same as one already adopted or appropriated by an existing corporation subject to the supervision of the Banking Department, or by its similarity thereto is likely to mislead the public.

(b) Whether the convenience and advantage of the public will be served by the proposed incorporation, and whether the density of the population in the neighborhood designated for the place of business of such proposed corporation and in the surrounding country affords a reasonable promise of adequate support for the enterprise.

(c) Whether the responsibility, character and general fitness for the business of the persons named in such certificate are such as to command the confidence of the community and warrant belief that the business of the proposed corporation will be honestly and efficiently conducted in accordance with the intent and purpose of this act.

Note:—The first paragraph takes the place of section 2 of the act of 1876 (1 Purd. 399) and part of section 2 of the Savings Bank Act of 1889 (1 Purd. 453), providing for the filing of the certificate with the Auditor-General after approval by the Attorney-General. The provision as to by-laws is introduced because the articles of association required by the existing acts have been dispensed with.



The remainder of the section is partly derived from section 3 of the Savings Bank Act (1 Purd. 453) and partly new.

**Section 71. Proof of Publication and Payment of Capital; Approval of Certificate by Commissioner.**—After completion of the advertising required by section 69 of this act, and upon the receipt by the Commissioner of satisfactory proof of such advertising, the Commissioner, if he shall be satisfied upon the matters enumerated in section 70 of this act and approve the proposed by-laws, shall forthwith so notify the incorporators in writing. If, within thirty days after the giving of such notice, the incorporators shall pay to the State Treasurer such bonus as is or may be prescribed by law, and shall file with the Commissioner the certificate under oath of the persons named in the certificate of incorporation as the board of directors for the first year that the whole of the capital stock has been paid to them, the Commissioner shall forthwith endorse his approval on said duplicate certificates of incorporation and certified copies of the by-laws and shall transmit the same to the Governor.

In all cases, the Commissioner shall approve or disapprove said certificate of incorporation and by-laws within thirty days after the receipt by him of proof of advertisement.

**Note:**—This new section, with the preceding ones, is intended to enable the Commissioner to make the necessary investigation during the period of advertising, so that, at the end of the period, nothing need remain open except the proofs of advertising and payment of capital. The thirty-day limitation will give any additional time necessary. The permanent records at Harrisburg will remain in the office of the Commissioner, and the duplicates transmitted to the Governor will be returned to the corporation as provided below.

**Section 72. Disapproval of Certificate by Commissioner; Appeal.**—If the Commissioner shall disapprove a certificate of incorporation or proposed by-laws, he shall forthwith give notice thereof, in writing, stating his objections fully and clearly, to the proposed incorporators, who, if they so desire, may within ten days thereafter appeal from such disapproval to the Governor, who shall hear the said appeal promptly and, within thirty days after hearing, shall decide the matter and certify his decision to the Commissioner. The decision of the Governor shall be final and conclusive and not subject to review, and the Commissioner shall act in accordance therewith.

**Note:**—Since this Code empowers the Commissioner to approve or disapprove the incorporation of banks, some method of reviewing his action in disapproving an application seems necessary.

**Section 73. Issuance of Letters Patent and Transmission of Certificate of Incorporation to Commissioner and to Recorder of Deeds.**—The Governor, on receipt of said certificates and copies of by-laws, with the approval of the Commissioner, shall, if he approve the same, endorse on both of said certificates his approval with the date of the letters patent, and shall cause letters patent under the great seal of the Commonwealth to be issued to the said corporation.



The Governor shall thereupon forthwith transmit one of the said certificates of incorporation to the recorder of deeds in and for the county where the principal place of business of the corporation is to be located, shall forward to the corporation, with the letters patent, one of the copies of the by-laws, and shall return the other certificate and the other copy of the by-laws to the Commissioner, who shall file and preserve the same in his office. For the purpose of taxation, it shall be the duty of the Commissioner forthwith to furnish the Auditor General with a certified copy of said certificate of incorporation.

Note:—This takes the place of section 3 of the act of 1876 (1 Purd. 400) and section 4 of the Savings Bank Act of 1889 (1 Purd. 453), which provide that the Auditor-General, on receipt of the articles of association with the approval of the Attorney-General, shall certify a copy to the Governor, who shall thereupon issue the letters patent.

The purpose of the transmission of the certificate to the recorder of deeds is shown by the section next following.

**Section 74. Recording Certificate and Effect thereof.**—On receipt by said recorder of deeds of the certificate of incorporation and on payment to him by the incorporators of his fees as provided by law in similar cases, he shall forthwith record said certificate and index the same in the same books and in the same manner as charters of other corporations are or may be by law required to be recorded and indexed; and when said certificate has been so recorded, the subscribers thereto and their associates and successors shall be a corporation for the purposes and on the terms named in said certificate, from the date of the letters patent.

Note:—This is modeled on the provisions of section 3 of the General Corporation Act of 1874. It seems proper that the charters of banks as well as those of other corporations should be on record in the county where the business is carried on.

The first part of section 9 of the act of 1889, providing that before any savings bank shall be authorized to receive deposits it shall transmit to the Auditor-General the names and addresses of the officers and trustees and the place where business is to be carried on, is sufficiently covered by the provisions of the previous sections of this Code.

**Section 75. Certified Copies of Certificate as Evidence.**—Copies of any certificate of incorporation under this act duly certified by the Commissioner or by the recorder of deeds, and authenticated by the seal of his office, shall be conclusive evidence, in all courts of the commonwealth, of the existence of such corporation and of every other matter or thing which could be proved by the production of the original certificate.

Note:—This is derived from the last part of section 2 of the act of 1876 (1 Purd. 399), substituting the Commissioner for the Auditor-General, and adding the recorder of deeds.

**Section 76. Failure to Organize and Commence Business.**—Any bank incorporated under this act that shall not organize and commence business within two years after the issuance of letters patent

as provided in section 73 of this act, shall forfeit its rights and privileges as a corporation under this act.

Note:—This is founded on section 7 of the Savings Bank Act of 1889 (1 Purd. 454), substituting two years for one year, to conform to section 28 of this Code which prescribes the procedure to be followed by the Commissioner.

#### Section 77. Stock.

(a) **Certificates of Stock.**—All banks having a capital stock are authorized and required to issue certificates of their said stock to all the stockholders, properly signed by the president or a vice-president and by the cashier or treasurer or an assistant cashier or assistant treasurer of the bank.

Note:—This is derived from section 4 of the act of April 17, 1872 (P. L. 62; 4 Purd. 4370), which relates to savings banks only.

The act of May 2, 1919 (P. L. 109), amending section 2 of the act of May 28, 1913 (P. L. 378; 5 Purd. 5711), so as to permit trust companies to issue preferred stock, is recommended for repeal, there being no reason apparent to the Commissioners why a banking institution should issue preferred stock.

(b) **Transfers of Stock.**—The shares of stock of any bank shall be deemed personal property and shall be transferable on the books of the bank in such manner as may be prescribed by the by-laws thereof; and every person to whom stock shall be so transferred shall, in proportion to the shares received, succeed to all the rights and liabilities of the prior holders thereof, subject, however, to the provisions of section 78 of this act, relating to individual liability of stockholders.

Note:—This is derived from section 5 of the act of 1876, amended by section 1 of the act of May 3, 1909 (P. L. 412; 5 Purd. 5341), omitting after "by-laws" the words "and articles of association." It covers also a part of Article X of section 10 of the act of 1850 (1 Purd. 427).

Section 4 of the act of April 17, 1872 (P. L. 62; 4 Purd. 4370), relating to savings banks, provides that "certificates transferred by the party holding the same, or his duly authorized attorney in the presence of the president, secretary or treasurer, shall be a valid and legal transfer of the said stock." This is now left to be regulated by the by-laws.

Section 21 of the act of 1876 (1 Purd. 405), providing that no stockholder shall sell or transfer his stock, without the consent of a majority of the directors, so long as he is indebted to the bank, and that he shall not be entitled to receive any dividends or profits so long as any liability of his to the bank shall be overdue, is recommended for repeal, as is also the similar provision of Article X, section 10 of the act of 1850. Stock in corporations in general is no longer subject to these restrictions and there seems to be no reason why they should be continued as to banks.

#### Section 78 Individuality Liability of Stockholders.

(a) **In General.**—The stockholders of every bank shall be individually responsible, equally and ratably, but not one for the other, for all contracts, debts, and engagements of such bank to the amount of their stock therein, at the par value thereof, in addition to the par value of such shares.

Stockholders who shall have transferred their shares or registered the transfer thereof within thirty days next before the date of the

failure of such bank to meet its obligations, or with knowledge of such impending failure, shall be liable to the same extent as if they had made no such transfer, to the extent that the subsequent transferee fails to meet such liabilities; but this provision shall not be construed to affect in any way any recovery which such stockholder might otherwise have against those in whose names such shares are registered at the time of such failure.

Any agreement made by a bank with its depositors, whereby the liability of stockholders imposed by this section shall in any manner be sought to be waived, shall be void.

Note:—The first paragraph is derived from section 5 of the act of 1876, amended by section 1 of the act of May 3, 1909 (P. L. 412; 5 Purd. 5342). Section 32 of the act of 1850 (1 Purd. 442), dealing with individual liability in cases of insolvency and the method of enforcement thereof, is covered by section 48 of this Code.

Section 1 of the act of May 11, 1874 (P. L. 135; 1 Purd. 443), imposing double liability on stockholders of "banks, banking companies, saving fund institutions, trust companies, and all other incorporated companies doing the business of banks, or loaning and discounting moneys as such in this commonwealth" has been construed not to apply to trust companies incorporated under the General Corporation Act of 1874 and its supplements, since such companies are not "doing the business of banks": *De Haven vs. O'Rourke*, 223 Pa. 663, affirming 17 Dist. Rep. 445. The present section is drafted so as to include all trust companies.

The second paragraph of the clause follows the provisions of section 23 of the Federal Reserve Act of December 23, 1913, except that the period is made thirty days instead of sixty. The last paragraph is new.

(b) Proceedings by Commissioner or Creditors.—In case the Commissioner shall have taken possession of the business and property of a bank pursuant to law, all actions or proceedings to enforce the liability of stockholders under this section shall be taken and prosecuted only by the Commissioner as provided in section 48 of this act, unless the Commissioner shall refuse to take or prosecute such action or proceeding on proper request in writing made by a creditor of the bank, or shall fail or neglect to commence such action or proceeding or to prosecute the same within sixty days after the receipt of such request, in either of which events such action or proceeding may be taken by any creditor of the bank, who shall have recovered a judgment against the bank, execution whereon shall have been returned unsatisfied in whole or in part.

Any action to enforce the liability of stockholders under this section must be brought within six-years after the cause of action has accrued.

Note:—This clause is new.

Section 11 of the act of 1876 (1 Purd. 402), relating to the collection of unpaid stock subscriptions, is recommended for repeal except as to banks in existence at the date of approval of this Code. The section can have no application to banks incorporated under the Code, whose capital stock is required to be paid in full before the charter issues; and after the approval of the Code, the section can apply only for a period of five months after the date of incorporation of the last bank under the old law, and for a period of one year from the last increase of capital stock under the old law.

## Section 79. Increase of Capital Stock.

(a) In General.—Any bank may, with the approval of the Commissioner, increase its capital stock, from time to time, in accordance with the provisions of this section, but not otherwise, provided a majority of the stockholders shall so determine; but no such increase, unless made from surplus or undivided profits, shall be approved by the Commissioner until the entire amount thereof shall have been subscribed and paid for, or until the corporation, if in existence before the approval of this act, shall have filed a certificate accepting the provisions of this act and of the constitution of the commonwealth, as provided by section 6 of this act.

The stockholders may, by majority vote, direct the sale of stock issued pursuant to such increase for such price per share, not less than par, as they may designate; Provided, That every stockholder shall be entitled to a like option with all other stockholders of taking shares so issued in proportion to his interest in the corporation, and that all money thus received, beyond the par value of the shares, shall be applied as directed by the stockholders, who may also direct the sale of options not taken, after a reasonable time shall have been given for electing to take or refuse the same.

Note:—This and the following clauses take the place of the first part of section 10 of the act of 1876 (1 Purd. 402), which contemplates provisions as to increase of capital in the articles of association, limits the increase to the amount there specified, provides for certification to the Auditor-General, and allows a year for payment.

The general scheme of the present section is the same as that of the general act of February 9, 1901 (P. L. 1; 1 Purd. 808).

The provision as to issuance of an increase of stock at a price above par is substantially the same as that of section 1 of the act of April 15, 1891 (P. L. 11; 2 Purd. 1947), relating to insurance companies.

Section 2 of the act of June 11, 1885 (P. L. 111; 4 Purd. 4829) provided that trust companies might increase their capital stock "according to the forms prescribed by law," and limited the amount after such increase to two million dollars. This limitation has been impliedly repealed by subsequent legislation relating to corporations in general.

(b) Resolution of Board of Directors.—Any bank desiring to increase its capital stock shall, by resolution of its board of directors, adopted by a majority of the entire number thereof, declare such purpose and thereupon by resolution, similarly adopted, direct that the question of such proposed increase be submitted to the stockholders either at a regular annual meeting or any adjournment thereof, or at a special meeting called for that purpose.

(c) Notice of Stockholders' Meeting.—Notice of any such meeting of stockholders to vote on the question of a proposed increase of capital stock shall be given to all stockholders of record, in writing, at least sixty days before the date of such meeting, and be advertised once a month for two months in one newspaper, the first advertisement to be published at least sixty days before the date of such meeting.



**The notice and advertisement shall specify the name and style of the bank, its location, the amount of its capital stock, and the amount of the proposed increase thereof; and, if it be proposed to issue the new stock at a price above par, such purpose shall also be specified.**

**Note:—**This is derived partly from the act of 1901 and partly from section 4 of the act of 1876 (1 Purd. 400). The method of service of the notices and the designation of the newspaper are covered by sections 8 and 9 of this Code.

**(d) Conduct of Stockholders' Meeting—**At such meeting, or any adjournment thereof, an election of the stockholders shall be taken for or against such increase, which election shall be conducted in the same manner as is provided by clauses (e) and (f) of section 85 of this act for the holding of elections of directors. The judges of election shall, when the election is closed, count the number of shares voted for and against such increase, and declare whether the holders of a majority of the stock of such bank have consented or refused to consent thereto, and shall make out duplicate returns of said election, stating the number of shares of stock voted for such increase and the number voted against such increase, and subscribe and deliver the same to one of the chief officers of said bank.

**Note:—**Clause (b) of section 2 of the act of 1901 contains provisions as to judges of election, ballots, proxies, etc. Since these provisions are equally applicable to any election of directors or other stock vote, it seems better to cover them in the later section dealing with those matters.

**(e) Certificate and Return.—**It shall be the duty of such bank, if consent is given to be the proposed increase, to file in the office of the Commissioner, within thirty days after the meeting of stockholders, the certificate of the chairman and secretary of said meeting, with a certified copy of the resolutions of the board of directors, and proofs of notice to stockholders and publication in accordance with the provisions of clause (c) of this section.

**Note:—**This is founded on section 3 of the act of 1901, but substitutes the Commissioner for the Secretary of the Commonwealth, and ignores the distinctions between annual and special meetings and between actual and authorized increase.

**(f) Approval by Commissioner; Bonus.—**The Commissioner shall thereupon proceed to ascertain whether the provisions of the law have been complied with and shall also ascertain from the best sources of information at his command and by such investigation as he may deem necessary whether the convenience and advantage of the public will be served by the proposed increase of capital stock. If he shall be satisfied on said points, he shall so notify the bank in writing, whereupon the bank shall, within thirty days, furnish to the Commissioner proof satisfactory to him that the amount of such increase of capital stock, if issued for cash, has been actually paid in, or, if such increase be in the nature of a stock dividend, that it is justified by the

surplus or undivided profits of the bank. On receipt of such proof, the Commissioner shall endorse his approval on said certificate of the chairman and secretary and shall notify the bank thereof, whereupon the bank shall forthwith pay to the State Treasurer such bonus on said increase as is or may be prescribed by law.

For the purpose of taxation it shall be the duty of the Commissioner, at the same time he notifies the bank of his approval, to furnish the Auditor-General with a certified copy of the return of the cashier or treasurer of the bank.

Note:—This clause is new.

(g) Pending Proceedings.—Any proceeding for increase of capital stock, begun under existing law prior to, and not completed at the date of approval of this act, shall be consummated under the provisions of the law existing prior to the approval of this act.

Note:—This takes the place of the first proviso to section 4 of the act of 1901.

#### Section 80. Decrease of Capital Stock.

(a) In General.—Any bank may, with the approval of the Commissioner, decrease its capital stock from time to time, in accordance with the provisions of this section, but not otherwise, either by reducing the number of its shares or by reducing the par value of each share or by both methods, to any sum not below the minimum required by law for such bank, provided a majority of the stockholders shall so determine, and provided that the liability of the stockholders for the contracts, debts or engagements of the bank for which they are liable at the time when such decrease is made shall continue for one year thereafter.

No such decrease shall be approved by the Commissioner until the corporation, if in existence before the approval of this act, shall have filed a certificate accepting the provisions of this act and of the constitution of the commonwealth, as provided by section 6 of this act.

Note:—This follows the form of clause (a) of section 79, relating to increase of capital stock, and takes the place of part of section 10 of the act of 1876 (1 Purd. 402.), section 1 of the act of June 11, 1879 (P. L. 133; 1 Purd. 417) and section 1 of the act of June 22, 1883 (P. L. 155; 1 Purd. 402).

The last part of the first paragraph has been changed by striking out, after, "provided that," the words "no such decrease shall affect or destroy," and by adding at the end of the sentence the words "shall continue for one year thereafter."

The act of 1876 requires a vote of two-thirds of the stockholders but the later acts require a majority only. The act of 1883 provides "that for all deposits received by banking corporations after such decrease, the stockholders shall only be liable for the indebtedness of such banking company as the charter provides." The necessity for re-enacting this provision is not apparent.

(b) Resolutions of Board of Directors; Stockholders' Meeting.—The procedure for decrease of capital stock, so far as relates to the resolution of the board of directors declaring the purpose, the resolution

directing that the question be submitted to the stockholders, the notice of the stockholders' meeting and the conduct of the meeting, shall be the same as is prescribed by clauses (b), (c) and (d) of section 79 of this act, relating to increase of capital stock.

Note:—This takes the place of sections 3 and 4 of the act of June 11, 1879 (P. L. 133; 1 Purd. 418) and Article III of section 10 of the act of 1850 (1 Purd. 423).

(c) Certificate; Approval by Commissioner.—It shall be the duty of such bank, if consent is given to the proposed decrease, to file in the office of the Commissioner, within thirty days after the meeting of stockholders, the certificate of the chairman and secretary of said meeting, with a certified copy of the resolutions of the board of directors and proofs of notice to stockholders.

The Commissioner shall thereupon proceed to ascertain whether the provisions of the law have been complied with and shall also ascertain from the best sources of information at his command whether the interests of depositors or other creditors of such bank, or of the public, will be injuriously affected by the decrease of capital stock. If he shall be satisfied upon said points, he shall endorse his approval on said certificate of the chairman and secretary and shall notify the bank thereof.

Note:—The first paragraph is founded in part on section 5 of the act of 1879 (1 Purd. 418). The Commissioner is substituted for the Secretary of the Commonwealth and the provisions as to proofs of notice and approval by the Commissioner are new.

The second paragraph corresponds to clause (f) of section 79 of this Code.

(d) Notice of Approval by Commissioner; Return; Actual Decrease.—Upon notification by the Commissioner that such decrease has been approved by him, and upon the actual making of such decrease, it shall be the duty of the president and the cashier or treasurer of the bank, within thirty days thereafter, to make a return to the Commissioner, under oath, of the amount of such decrease; and in case of neglect or omission so to do, such decrease shall be void.

The Commissioner shall cause said return to be recorded in a book kept for that purpose and shall forthwith furnish a certified copy of the same to the Auditor-General: and thereupon, the directors of such bank shall alter and change the number or the par value of the shares of stock thereof, or both, to conform to the decrease and shall issue new certificates of stock representing the decreased number of shares or the decreased par value, or both, signed by the proper officers of the bank, and deliver the same to the shareholders entitled thereto, on the surrender of their former stock certificates, which shall be cancelled by said officers, before the payment of any dividends declared after such decrease.

Note:—This takes the place of part of section 5 of the act of 1879 (1 Purd. 418), with some changes of wording and the substitution of the Commissioner for the Secretary of the Commonwealth.

Section 2 of the act of June 22, 1883 (P. L. 155; 1 Purd. 402), provides that when stock certificates have been issued subject to assessment for unpaid portions of the subscription price, the bank may decrease its capital to the amount paid in and issue new certificates, full paid and non-assessable; but that no bank shall so decrease its capital to less than \$200,000, nor any trust company or savings institution to less than \$50,000. This cannot apply to banks incorporated under this Code, since their entire capital stock must be paid in before they are chartered; but its repeal should be so qualified as not to apply to banks in process of organization at the date of approval of the act.

(e) Excess of Capital Created by Decrease of Stock.—Any excess of capital created by a decrease of the capital stock of a bank in accordance with the provisions of this section shall forthwith be transferred to the surplus fund of the bank or, with the written approval of the Commissioner, may be returned to the stockholders in proportion to their holdings.

Note:—This clause is new.

(f) Pending Proceedings.—Any proceeding for decrease of capital stock, begun under existing law prior to, and not completed at the date of approval of this act, shall be consummated under the provisions of the law existing prior to the approval of this act.

Note:—This conforms to clause (g) of section 79 of this Code, relating to increase of capital stock.

Section 81. Corporate Powers in General.—A bank organized under the provisions of this act shall, from the date of the letters patent, issued as provided in section 73 of this act, be a body corporate; but it shall transact no business, except such as may be incidental to its organization, until the recording of its certificate of incorporation in the office of the recorder of deeds as provided in section 74 of this act.

It shall have power:

(a) To adopt a corporate seal and have succession by the name designated in its certificate of incorporation, perpetually or for the term limited in said certificate, from the date of the letters patent, unless dissolved as provided by law.

(b) To contract, sue and be sued, complain, prosecute and defend actions and suits as fully as a natural person; and process against such corporation shall be served in the same manner as process against corporations of this commonwealth in general is or may be required by law to be served.

(c) To exercise under this act the powers of a state bank, a trust company or a savings bank, as specified in the certificate of incorporation, but shall not carry on any kind of business not so specified.



**Note:**—This section deals with the general powers common to all corporations under the act—what may be designated as “corporate powers” as distinguished from “banking powers.” The section is founded on the first part of section 6 of the act of 1876 (1 Purd. 400) and the first part of section 6 of the Savings Bank Act of 1889 (1 Purd. 453). The wording has been changed, reference to the articles of association has been omitted, the method of service of process has been made uniform with that for other corporations, and those parts of the act of 1876 as to powers of the directors and the place where business is to be transacted have been transferred to other sections.

The enumerations of the powers of banks as such in the act of 1876 and of the powers of savings banks in the act of 1889 are covered by Articles IV and V of this Code.

The present section provides for either a perpetual or a limited charter and includes the general corporate powers of trust companies and savings banks as well as state banks. Clause (c), so far as it provides for the carrying on of the kind of business specified in the certificate of incorporation, is new.

## Section 82. Place of Business.

(a) **In General.**—No bank shall transact any banking or trust company business except at the place designated in its certificate of incorporation and at such branch or branches as may lawfully be established in accordance with the provisions of section 83 of this act, unless such place of business shall be lawfully changed in the manner hereinafter set forth.

**Note:**—This takes the place of the last part of section 6 of the act of 1876 (1 Purd. 400), which provides that the usual business of the bank shall be transacted at an office or banking house in the place specified in the certificate of association.

(b) **Change of Place of Business.**—Any bank may, by resolution of its board of directors, remove the location of its principal place of business to any other place in the same city, borough or township, upon filing with the Commissioner a certified copy of such resolution and, if the bank was in existence before the approval of this act, a certificate accepting the provisions of this act and of the constitution of the commonwealth, as provided by section 6 of this act.

Any bank may, with the consent of the Commissioner, remove the location of its principal place of business to any other place within the same county, but outside the city, borough or township, by the vote of the holders of two-thirds of the stock of such bank at a meeting of stockholders called for the purpose, thirty days' notice of which meeting and of the purpose thereof shall be given to all stockholders. A certified copy of the minutes of such meeting, with proof of the notice thereof and a certificate accepting the provisions of this act and of the constitution of the commonwealth as aforesaid, shall be filed with the Commissioner; and the change of location shall not be made until the Commissioner shall be satisfied that such change will serve the convenience and advantage of the public, that the density of the population in the neighborhood designated for the new place of business for such bank and in the surrounding country affords a reasonable promise of adequate support for the enterprise, and that the capital of the bank equals or exceeds the minimum capital required by law for the incorporation of a new bank located in the place to which the

place of business is proposed to be removed, or until the Commissioner shall have issued his certificate of approval of such removal.

When any change of location of place of business of a bank is made under the provisions of this clause, the Commissioner shall forthwith notify the Auditor-General thereof.

Note:—This clause is new. Section 10 of the Savings Bank Act (1 Purd. 454), authorizes change of location within the limits of the city or town with the written approval of the Auditor-General, and permits the sale of the old property and the purchase of the new one.

The second paragraph is founded on section 2 of the Act of Congress of May 1, 1886, relating to national banks, and covering change of name as well as change of place of business. The removal there provided for is to any place in the same state, not more than thirty miles distant.

Change of name is covered in this Code by the section relating to amendments of the charter in general.

(c) Different Institutions Not to Occupy Same Room.—No two or more of the following corporations or persons, namely, a state bank, a trust company, a savings bank, a co-operative bank, an unincorporated bank, and a national bank, shall do business or be located in the same room or rooms, or in rooms so connected and arranged, as to be to all intents and purposes one banking room: Provided, That the provisions of this clause shall not apply to conditions of occupancy existing at the date of the approval of this act, but that when any material change shall be made in the arrangement of any existing banking room or rooms, of the materiality of which change the Commissioner shall be the sole and final judge, the provisions of this clause shall apply.

Note:—This clause is new. It is recommended by the Commission for obvious reasons connected with examinations by the Department.

### Section 83. Branches.

(a) Within the State.—With the approval of the Commissioner, whose decision in the matter shall be final, any bank may establish and maintain, in the county in which its principal place of business is located, one or more branches, at which all or any of the kinds of business which may be transacted by such bank at its principal place of business may be carried on; but no bank having capital stock shall be permitted to establish any such branch or branches unless its capital shall at least equal the total minimum capitals that would be required under this act if it and its branch or branches were incorporated as separate banks, or, if the bank was in existence before the approval of this act, until it shall have filed with the Commissioner a certificate accepting the provisions of this act and of the constitution of the commonwealth, as provided by section 6 of this act.

Note:—This takes the place of the act of July 28, 1917 (P. L. 1235), which permits sub-offices or sub-agencies for the purpose only of receiving and paying out moneys, requires daily reports and daily transfer of assets to the main office,

and does not permit branch offices for the transaction of the general business of the bank.

Section 50 of the act of 1850 (1 Purd. 446) prohibited the establishment or maintenance of any branch or agency and imposed as a penalty forfeiture of the charter of the bank and payment, during the period of continuance of any branch or agency, of four times the amount of all taxes chargeable to the bank in the current year.

(b) Outside the State.—With the approval of the Commissioner, whose decision in the matter shall be final, any bank having a combined capital and surplus of one million dollars or more may establish and maintain a branch office or branch offices in one or more places located outside the state of Pennsylvania, either in the United States of America, any territory, possession or dependency thereof, or in any foreign country: Provided, That no such branch shall be established or maintained unless the bank, if in existence before the approval of this act, shall have filed with the Commissioner a certificate accepting the provisions of this act and of the constitution of the commonwealth, as provided by section 6 of this act.

Note:—This clause is new. Section 25 of the Federal Reserve Act, as amended by the act of September 7, 1916, authorizes national banks, having a capital and surplus of one million dollars or more, to apply to the Federal Reserve Board for permission to establish branches in foreign countries or dependencies or insular possessions of the United States.

(c) Penalty for Unauthorized Branches.—Any bank which shall establish or maintain a branch, either within or without the state of Pennsylvania, without the approval of the Commissioner, or in violation of the provisions of this section, shall be subject to a penalty of one hundred dollars for each day during which any such branch shall be open or occupied. Said penalty shall be payable to the Commissioner and, in case of failure or refusal of such bank to pay the same, the Commissioner may maintain an action at law for the recovery thereof.

Note:—This clause is new. The act of 1917 provides no penalty; and the penalty of the act of 1850, set forth in the note to clause (a) of this section, is unduly severe.

(d) Injunction.—In addition to the remedy provided by clause (c) of this section, a court of competent jurisdiction may, on bill filed by the Commissioner, issue an injunction restraining any bank from opening, operating or maintaining a branch without the approval of the Commissioner or in violation of the provisions of this section, and may make such other order or decree as equity and justice may require.

Note:—This new clause provides a remedy which, in some instances, may be more effective than the penalty imposed by the preceding clause.

#### Section 84. Officers.

(a) In General.—Every bank shall, by its board of directors or

trustees, elect annually a president, a vice-president or vice-presidents, a cashier or treasurer, and such other officers as may be prescribed by the by-laws, and shall fix the compensation of all officers, whether members of the board of directors or trustees or not, but not the compensation of the directors as such, and may dismiss any of such officers at pleasure and appoint others to fill vacancies caused by such dismissal or otherwise.

The officers shall exercise such powers and perform such duties as shall be prescribed by the by-laws.

Note:—This takes the place of section 6 of the act of 1876 (1 Purd. 400), the provisions being extended to trust companies and savings banks. The word "annually" has been inserted and the provision of section 6 as to bonds is covered in clause (d) of this section. The reference to the by-laws and the provision for appointments to fill vacancies other than those caused by dismissal are new.

Section 2 of the act of May 7, 1855 (P. L. 508; 1 Purd. 425), authorizing directors to elect a vice-president and assistant cashier and confer certain powers upon them, with provision for ten days notice in a newspaper of the election of such officers, is recommended for repeal, as are also section 1 of the act of April 13, 1859 (P. L. 613; 1 Purd. 425), relating to salary of vice-president, and section 15 of the act of March 29, 1851 (P. L. 295; 1 Purd. 425), amended by the act of May 6, 1854 (P. L. 595; 1 Purd. 425 n.), so far as it relates to the election of cashiers and solicitors in Philadelphia.

(b) Eligibility of Cashier or Treasurer; Restrictions on Engaging in Other Business.—No judge of any court of record nor any person holding any office under this commonwealth in the Banking Department, the Treasury Department or the Auditor-General's Department, nor any person authorized to receive and account for the public moneys of this commonwealth, nor the treasurer of any county, city, or other municipal sub-division of this commonwealth, shall be eligible, at the same time, as cashier or treasurer of any bank.

No cashier or treasurer of any bank shall, without the consent of a majority of the board of directors of said bank duly evidenced by resolution recorded upon the minutes, engage in any other profession, business, occupation or calling, either directly or indirectly, than that of the duties appertaining to the office of cashier or treasurer, save that such cashier or treasurer may manage his own real estate or personal property, as heretofore, if such private property be not vested in mercantile, mechanical, manufacturing or mining operations.

If such cashier or treasurer shall, directly or indirectly, engage in any other profession, business, occupation or calling than that of his duties as cashier or treasurer, except as herein provided, without such consent, or shall, directly or indirectly, engage in purchasing and selling on margin stocks or other securities or commodities, he shall forfeit his office and shall be guilty of a misdemeanor, upon conviction whereof he shall be sentenced to pay a fine not exceeding five hundred dollars.



Note:—The first paragraph is founded on section 3 of the act of January 27, 1819 (7 Sm. L. 148; 1 Purd. 422), as amended by section 2 of the act of April 18, 1855 (P. L. 258; 1 Purd. 423). The act of 1819 relates to directors as well as cashiers and the act of 1855 permits justices of the peace to be directors. The new wording as to the state departments is substituted for "the accounting or treasury department or in the land offices," and the provision as to treasurers of counties, etc. is new.

The clause is extended to trust companies and savings banks. Section 4 of the act of April 22, 1854 (P. L. 468; 1 Purd. 451), provides that all general laws relating to cashiers of banks shall apply to the cashiers or treasurers of savings institutions.

The second and third paragraphs are founded on part of section 18 of the act of 1876 (1 Purd. 404), part of Article V of section 10 of the act of 1850 (1 Purd. 424), as amended by the acts of April 18, 1855 (P. L. 258; 1 Purd. 425), May 7, 1855 (P. L. 508; 1 Purd. 425) and April 18, 1856 (P. L. 403; 1 Purd. 425 n.), and section 64 of the act of March 31, 1860 (P. L. 382). The provisions as to consent of directors are new; the word "mining" has been added; and the provision as to dealing in stocks, etc. on margin has been substituted for "engage in the purchase of stocks."

In the recent case of *Solomon v. Moyer*, 71 Pa. Superior Ct. 4, it is held that the act of 1860 refers to a general occupation by which one usually gets his living, and not to a single transaction.

(c) Oaths.—Every officer of a bank elected by the stockholders or by the board of directors or trustees shall, within thirty days after his election and before assuming the duties of his office, take an oath or affirmation that he will give the business of the bank his care and attention and, so far as the duty devolves on him, diligently and honestly administer the affairs of the bank, and faithfully perform the duties of his office in accordance with the law, so long as he continues therein; that he will never use the moneys of the bank in his private transactions, nor engage in private financial operations through his office; that he will render true accounts of all his transactions; and that he will not knowingly violate or willing permit to be violated any of the provisions of law applicable to such bank.

Such oath or affirmation shall be subscribed by the officer making it and immediately transmitted to the Commissioner, by whom it shall be filed.

Note:—This is derived from section 15 of the act of 1850 (1 Purd. 425), section 18 of the act of 1876 (1 Purd. 404), relating to the agreement to be entered into by an officer with the bank, and the act of June 3, 1911 (P. L. 652; 7 Purd. 7698), relating to the oath of directors.

(d) Bonds. The officers and employees of every bank, before entering upon the performance of their duties, shall furnish bonds to the bank in such amount as the board of directors shall require, with surety approved by the board of directors, conditioned for the faithful performance of their duties.

The Commissioner shall have power at any time to require any such officer or employee, during the term of his office or employment, to furnish a bond in a greater amount than that required by the board of directors, or with new or additional sureties.

Note:—This clause takes the place of section 18 of the act of 1876 (1 Purd. 404) and Article V of section 10 of the act of 1850 (1 Purd. 424), as amended, relating to state banks, and section 14 of the Savings Bank Act of 1889 (1 Purd. 455).

The provisions of the act of 1876 as to articles of agreement are covered in part by clause (c) of this section and the provisions as to approval of bonds by the court and recording in the office of recorder of deeds are omitted. The provisions as to the Commissioner of Banking are new.

#### Section 85. Directors.

(a) Term of Office; Qualifications.—The affairs of every state bank and trust company shall be managed by not less than five directors, who shall be elected by the stockholders for such term, not exceeding three years, as shall be provided by the by-laws; and such state bank or trust company may provide in its by-laws for the division of its board into two or three classes, and the election thereof at its annual meetings in such manner that the members of one class only shall retire, and their successors be chosen, each year.

One of the directors shall be the president and another the vice-president or one of the vice-presidents.

Every director shall, during his term of service, be a citizen of the United States; and two-thirds of the directors shall, during their terms of service, be bona fide residents of the commonwealth of Pennsylvania.

Every director shall own, in his own right, unpledged shares of the capital stock of the corporation having a par value of not less than five hundred dollars; and every person elected as a director, who, after such election, shall hypothecate, pledge or cease to be the owner in his own right of the amount of stock aforesaid shall forthwith cease to be a director of the corporation and his office shall be vacant and he shall not be eligible for re-election as a director for a period of one year from the date of the next succeeding annual meeting.

Note:—The provision that directors shall be elected is derived from section 6 of the act of 1876 (1 Purd. 400), the classification provision being new. The remainder of the clause is founded on part of section 12 of that act (1 Purd. 403) amended by the act of July 19, 1917 (P. L. 1101), which provides that no cashier, clerk or teller shall be eligible as a director and requires a director to own at least ten shares of the stock.

The provision vacating the office in case a director pledges his stock, etc., is new.

Section 15 of the act of March 29, 1851 (P. L. 295; 1 Purd. 425), amended by the act of May 6, 1854 (P. L. 595; 1 Purd. 425 n.), relating to Philadelphia only, requires that one elected as a director shall have been a stockholder for three months.

Section 1 of the act of April 17, 1861 (P. L. 342; 1 Purd. 422) permits the stockholders to fix the number of directors at not less than five nor more than thirteen and provides that when the number is seven or less a majority shall be necessary to constitute a quorum. This may well be left to regulation by the by-laws.

Section 8 of the act of April 18, 1843 (P. L. 311; 1 Purd. 423) provides that directors shall be eligible for only three years out of any four, except that the president shall always be eligible, and provides for removal and fine in quo warranto proceedings by any stockholder.

(b) Powers of Board.—The board of directors shall have power, in any manner not inconsistent with the provisions of this act or with the by-laws, to designate and regulate the manner in which the stock shall be transferred, directors and officers elected or appointed, the property of the bank transferred, and the general business conducted; and all the privileges granted by this act to any bank shall be exercised and enjoyed by the board of directors, except as herein otherwise provided.

Note:—This is derived from the last part of section 6 of the act of 1876 (1 Purd. 400), with the addition of the provisions as to inconsistency with this act or with the by-laws, and the phrase except as herein otherwise provided."

(c) Time and Notice of Elections.—The directors of any bank, first elected, shall hold office until their successors shall be elected and qualified.

All subsequent elections of directors shall be held annually at the principal place of business of the bank, on the second Tuesday of January of each year, or within ten days thereafter. Notice of the time and place of holding the annual stockholders' meeting for the election of directors and for action upon such other matters as may be brought before such meeting shall be given, in writing, to the stockholders at least two weeks prior to the date of such meeting.

The directors elected at such meeting shall hold office for such term as is provided by the by-laws and until their successors shall be elected and qualified.

Note:—This takes the place of the first part of section 13 of the act of 1876 (1 Purd. 403), which provides for election on such days as may be specified in the articles of association. The method of serving notice of the annual meeting is covered by section 9 of this act, advertising being thus eliminated and notice by personal service or registered mail substituted.

The last part of section 13 of the act of 1876, providing for advertisement when the election is not held at the time appointed and for fixing the date of election in the by-laws or by vote of the stockholders, is recommended for repeal as unnecessary.

(d) Filling Vacancies in Board.—Any vacancy in the board of directors, caused by the death, resignation or disqualification of any director, shall be filled by election by a majority of the whole board, and any director so elected shall hold office until the next annual election.

Note:—This takes the place of so much of section 13 of the act of 1876 (1 Purd. 403), as provides for the filling of vacancies.

(e) Votes at Elections.—In all elections for directors, each stockholder shall be entitled to one vote on each share of stock held by him, and each ballot shall have endorsed thereon the number of shares thereby represented.



No share or shares transferred within thirty days prior to any election for directors shall entitle the holder or holders thereof to vote at such election.

Each stockholder shall be entitled to as many votes as shall equal the number of his shares of stock multiplied by the number of directors to be elected, and may cast all of such votes for a single director or may distribute them among the number to be voted for, or any two or more of them, as he may see fit, which right, when exercised, shall be termed cumulative voting.

Stockholders may vote by proxy, but no proxy shall be received or entitle the holder to vote, unless the same shall bear date and have been executed within two months next preceding the meeting at which such proxy is offered: and no officer or employee of the bank shall act as a proxy.

Note:—This takes the place of section 14 of the act of 1876 (1 Purd. 403), omitting the provision that "no shareholder whose liability is past due shall be allowed to vote." The clause is derived in part from section 4 of the act of June 11, 1879 (P. L. 133; 1 Purd. 418), relating to decrease of capital stock. The period for transfer has been changed from sixty to thirty days and the limitation of proxies from three months to two months. The provision as to cumulative voting has been made more definite.

The last part of the last paragraph covers the provision of Article V of section 10 of the Act of 1850 (1 Purd. 424), making it unlawful for the president, cashier, teller or clerk of a bank to act as a proxy.

The Commissioners recommend for repeal Article IV of section 10 of the act of 1850 (1 Purd. 424), providing that stock may not be voted unless held for three months before the election or unless held by the person in whose name it appears absolutely and bona fide, etc., that only females may vote by proxy, etc., and section 2 of the act of April 17, 1861 (P. L. 342; 1 Purd. 423), providing that stockholders shall have one vote per share up to ten shares, one vote for two shares from ten to twenty, one vote for five shares from twenty to one hundred, and one vote for ten shares above one hundred.

(f) Conduct of Election.—Every election for directors shall be conducted by three judges, stockholders but not directors of the bank, appointed by the board of directors to hold said election, and if one or more of said judges be absent, the judge or judges present shall appoint a person or persons to fill the vacancy or vacancies. The said judges shall respectively take and subscribe an oath or affirmation, before any officer authorized by law to administer the same, well and truly according to law to conduct such election to the best of their ability.

The bank shall furnish to such judges the stock ledger or a statement of the amount of its capital stock, with the names of the holders thereof and the numbers of shares held by each respectively, which statement shall be signed by the president, cashier or treasurer of the bank, with an affidavit thereto annexed that the same is true and correct to the best of his knowledge and belief.

Such judges shall decide upon the qualifications of voters, and when the election is closed shall determine whether the persons who



shall have the greatest number of votes are qualified to be elected directors, and shall decide and declare who are elected directors.

Note:—This follows in general the provisions of clause (b) of section 2 of the act of February 9, 1901 (P. L. 1; 1 Purd. 899), relating to increase of capital stock by corporations in general.

(g) Eligibility of Directors.—No judge of any court of record, nor any person holding any office under this commonwealth in the Banking Department, the Treasury Department or the Auditor-General's Department, nor any person authorized to receive and account for the public moneys of this commonwealth, nor the treasurer of any county, city, or other municipal subdivision of this commonwealth, shall be eligible, at the same time, as a director of any bank.

Note:—This is derived from section 3 of the act of January 27, 1849 (7 Stat. L. 148; 1 Purd. 422), which applies to cashiers as well as directors. See the note under clause (b) of section 84 of this act.

(h) Oaths.—Each director shall, within thirty days after his election, and before assuming the duties of his office, take an oath or affirmation that he will, so far as the duty devolves on him, diligently and honestly administer the affairs of the bank, and will not knowingly violate or willingly permit to be violated, any of the provisions of law applicable to the bank; that he is the owner, in good faith and in his own right, of shares of the capital stock of the bank of a par value of at least five hundred dollars, subscribed by him or standing in his name on the books of the bank, and that said stock is not hypothecated or in any way pledged as security for any loan or debt; and, in case of re-election, that such stock was not hypothecated or in any way pledged as security for any loan or debt during his previous term.

Such oath or affirmation shall be subscribed by the director making it and immediately transmitted to the Commissioner, by whom it shall be filed.

Note:—This is derived from section 15 of the act of 1850 (1 Purd. 425), and the act of June-3, 1911 (P. L. 653; 7 Purd. 7698), with the addition of the thirty day limitation and the provision as to re-election.

(i) Meetings of Board; Committees.—Within fifteen days after the annual meeting of stockholders, the directors duly qualified shall hold a meeting at which they shall organize and elect such officers as are provided for by the by-laws.

The directors of every bank shall hold a regular meeting at least once each month. They may, by resolution duly adopted, delegate to a committee or committees of their number the powers of the board in regard to the ordinary operations of the business of the bank between the dates of the monthly meetings. All such committees shall keep full minutes of all business transacted by them and shall make

full reports of all such transactions at each monthly meeting of the board.

Full reports of all transactions of the bank shall also be rendered by the officers of the bank to the board of directors, as and when the same may be required by the board.

Note:—This new clause is intended to take the place of Article VII of section by the by-laws.

10 of the act of 1850 (1 Purd. 426). The matter of quorum is left to be regulated

(j) Records.—The books, papers and correspondence, and the funds of every bank shall at all times be subject to the inspection of the directors.

The board of directors shall keep fair and regular entries of their proceedings, in a book provided for that purpose; and on any question, when a director shall require it, the yeas and nays shall be inserted on their minutes, which minutes shall, on demand, be produced to the stockholders, at any general meeting on request of the holders of a majority of the stock represented at the meeting, and shall be subject, also, together with the other books and papers, to the inspection of the Commissioner.

Note—Except for the substitution of the Commissioner instead of a committee of the Legislature, a change from two directors to one in requiring the yeas and nays, and the requirement of a majority vote of stockholders, this is a re-enactment of section 20 of the act of 1876 (1 Purd. 405), which is substantially the same as Article XV of section 10 of the act of 1850 (1 Purd. 426).

(k) Examinations and Reports by Board —The board of directors of every bank shall, at least once in each year, make or cause to be made by at least three of its members or by accountants employed for the purpose, a full examination of the books, papers and affairs of the bank, and the loans and discounts thereof, and particularly the loans and discounts made directly or indirectly to its officers or directors, or for their benefit, or for the benefit of other corporations, partnerships or unincorporated associations of which any officers or directors of the bank are also officers, directors, or members or stockholders having an interest equal to ten per cent. of the capital thereof, or in which they have a beneficial interest as creditors or otherwise, with the special duty of ascertaining the safety and present value of the loans and discounts of the bank and the value of the collateral security, if any, held in connection therewith, and into such other matters as the Commissioner may require. The board of directors shall have power to employ such assistance in making such examinations as they may deem necessary.

As soon as any such examination is completed, a full, written report thereof, signed by the directors or other persons making the same, shall be placed on file in the bank.

Note:—The clause makes compulsory in all banks a practice which is generally followed in well-managed institutions.

(l) Compensation.—Any bank, by vote of the holders of a majority of the stock, represented at any annual meeting, or by provision in its by-laws, may allow and pay to its directors compensation for their services as such.

Note:—This is in line with the act of May 17, 1917 (P. L. 228), relating to corporations in general.

Article VI of section 10 of the act of 1850 (1 Purd. 425), provides: "No director, except the president, shall be entitled to any emolument unless the same shall have been allowed by the stockholders at a general meeting."

(m) List of Stockholders.—The directors of every bank shall cause to be kept, at all times, at the principal place of business of the bank, a full and correct list of the names and residences of the stockholders and the number of shares held by each.

A copy of such list, verified by the president and the cashier or treasurer of the bank, shall at any time be furnished to the Commissioner on demand.

Note:—This is section 15 of the act of 1876 (1 Purd. 403), with the following changes: The section is extended to all banks; the provision that the list shall be subject to inspection of shareholders, creditors, and officers authorized to assess taxes is omitted as unnecessary with regard to stockholders and tax officers, and undesirable as to creditors; and the requirement as to furnishing a list to the Commissioner is substituted for a provision that a copy shall be sent to the Auditor-General on the first Monday of June of each year.

(n) Statement at Annual Meeting.—At each annual meeting of the stockholders of any bank, the directors shall lay before them a general and particular statement of the affairs of the bank: Provided, That this shall not so be construed as to compel the directors to lay before the stockholders a statement of any private account.

Note:—This is derived from Article IX of section 10 of the act of 1850 (1 Purd. 427), which also provides that a general meeting of the stockholders shall be held on the first Tuesday of November in each year.

(o) Communications from Banking Department.—Every official communication directed by the Commissioner or by one of his deputies to a bank or to any officer thereof, shall be submitted by the officer receiving it to the board of directors at the next meeting of such board, and shall be duly noted in the minutes of such meeting.

Note:—This clause is new.

#### Section 86. Meetings of Stockholders.

(a) Special Meetings.—The board of directors of any bank, or any twenty stockholders thereof, being together the owners of one twentieth part of the capital stock, or the holders of a majority of the capital stock, may at any time call a meeting of the stockholders for any purpose relative to the business of the bank, giving at least

four weeks' written notice, specifying the time, place and object or objects of such meeting.

Note:—This is derived from Article VIII of section 10 of the act of 1850 (1 Purd. 427). The method of service of notice is covered by section 9 of this act, advertising being thus eliminated and notice by personal service or registered mail being substituted.

(b) **Stock Votes.**—Whenever, at any meeting of stockholders of a bank, a stock vote shall be taken on any question, the same shall be controlled by the provisions of clauses (e) and (f) of section 85 of this act, relating to elections of directors, so far as applicable.

Note:—This new clause is framed so as to avoid repetition of the provisions of section 85, clauses (e) and (f), relating to votes, proxies, judges of election, etc.

#### Section 87. Amendments of Charter.

(a) **Procedure.**—When any bank shall desire to amend or alter its charter or articles of association, otherwise than by changing the location of its place of business or increasing or decreasing the capital stock, such bank shall proceed in the following manner:

After the adoption of a resolution authorizing such application by a majority of the board of directors, ratified by a vote of a majority of the stockholders at a regular annual meeting or at a special meeting called for the purpose, or the adoption of such resolution by a majority of the trustees or managers, where there are no stockholders, the bank shall give notice of the intention to apply for such amendment by publication once a week for three weeks in two newspapers, setting forth briefly the character and objects of the desired amendment or amendments.

The bank shall prepare duplicate certificates, under its corporate seal, setting forth the character and objects of the desired amendment or amendments, acknowledged by the president and the cashier or treasurer of the bank before any person authorized to take acknowledgments of deeds in this state, which certificates, together with proof of publication of notice as aforesaid, shall then be produced to the Commissioner and there shall be paid to him by the corporation a fee of fifty dollars. The Commissioner shall thereupon examine said certificates and said proof of publication, and if he shall find them to be in proper form, and that such amendment or amendments will be lawful and beneficial and not injurious to the community, and in accord with the purposes of the charter or articles of association, he shall approve thereof and endorse his approval thereon, and transmit the same to the Governor.

The Governor, if he shall approve the same, shall endorse his approval on both of said certificates, with the date of the letters patent, and shall cause letters patent, under the great seal of the commonwealth, reciting said amendment or amendments, to be issued to the



bank. The Governor shall thereupon forthwith transmit one of said certificates to the recorder of deeds in and for the county where the principal place of business of the bank is located and shall return the other certificate to the Commissioner, who shall file and preserve the same in his office and shall forthwith transmit to the Auditor-General a certified copy thereof.

On receipt by said recorder of deeds of the certificate of amendment and on payment to him of his fees as provided by law in similar cases, he shall forthwith record said certificate and index the same in the same book and in the same manner as charters of banks are by law required to be recorded and indexed, and shall also note upon the margin of the record of the charter of such bank, if the same be recorded, a reference to the book and page where such certificate of amendment is recorded. When said certificate has been so recorded, the same shall be deemed and taken to be a part of the charter or articles of association of the bank, to all intents and purposes, as if the same had originally been made a part hereof.

**Note:—**This is modeled to some extent on the act of June 13, 1883 (P. L. 122; 1 Purd. 782), relating to amendment of charters of corporations of the second class. The Commissioner has been substituted for the Secretary of the Commonwealth and his approval made necessary. Resolutions of the board of directors and of the stockholders, or of the trustees or managers, are provided for and other changes have been made to bring the clause into conformity with the provisions of this Code relating to incorporation. The provision as to noting an amendment on the margin of the record of the charter is new.

(b) **Method Exclusive: Acceptance of Act and Constitution—**No bank shall be permitted to amend or alter its charter or articles of association, otherwise than by changing the location of its place of business or increasing or decreasing the capital stock, except in the manner provided by clause (a) of this section; and no such amendment or alteration shall be approved by the Commissioner until the bank shall have filed with him a certificate accepting the provisions of this act and of the constitution of the commonwealth, as provided by section 6 of this act.

**Note:—**This clause is new. The exception of amendments changing location or increasing or decreasing capital stock is made because those subjects are covered by other sections of this Code.

In this connection, it is recommended that the act of April 22, 1903 (P. L. 251; 1 Purd. 784), relating to change of corporate name, be repealed so far as it relates to banks.

## Section 88. Merger and Consolidation.

(a) **Authority to Merge or Consolidate.—**Any state bank or trust company incorporated under this act or accepting the provisions thereof may merge its corporate rights, franchises, powers and privileges, with and into those of any other state bank or trust company so incorporated or accepting, so that by virtue of this act any two or more state banks, any two or more trust companies, or any state bank or state banks and any trust company or trust companies may consolidate and so that all property, rights, franchises and privileges

then by law vested in either or any of such corporations so merged shall be transferred to and vested in the corporation into which such merger shall be made.

Note:—Except for the provisions of clauses (c) and (f), which are new, this section is founded on the act of April 18, 1919 (P. L. 84), relating to electric light, heat and power companies. The act of 1919 follows the provisions of the general act of May 3, 1909 (P. L. 408), as amended by the act of April 29, 1915 (P. L. 205.)

The act of May 28, 1913 (P. L. 357) relates to the bonus to be paid when a trust company is merged with another company, a bank or a savings institution, but contains the following proviso: "That nothing contained in this act shall be construed to authorize the merger of trust companies with banks, banking companies or savings institutions."

(b) Agreement of Merger and Consolidation.—Said merger or consolidation shall be made under the conditions, provisions and restrictions, and with the powers, herein set forth, namely:

1. The directors of each corporation may enter into a joint agreement, under the corporate seal of each corporation, for the merger and consolidation of said corporations, prescribing the terms and conditions thereof, the mode of carrying the same into effect, the name of the new corporation, the number and names of the directors and other officers thereof and who shall be the first directors and officers and their places of residence, the number of shares of capital stock, the amount or par value of each share and the manner of converting the capital stock of each of said corporations into the stock of the new corporation, and how and when directors and officers shall be chosen, with such other details as they shall deem necessary to perfect the said consolidation and merger; but said agreement shall not be effective until the same shall be approved by the stockholders of each corporation in the manner hereinafter provided.

2. Said agreement shall be submitted to the stockholders of each of said corporations, at separate special meetings, of the time, place and object of which respective meetings due notice shall be given by publication in at least one newspaper once a week for two successive weeks before said respective meetings. At said meetings the said agreement shall be considered and a vote of the stockholders on the question of adoption or rejection of said agreement shall be taken by ballot in the manner provided by section 85, clauses (e) and (f), of this act. If a majority in amount of the entire capital stock of each of said corporations shall vote in favor of said agreement, then that fact shall be certified by the cashier or treasurer of each corporation, under the seal thereof, and said certificates, together with said agreement or a copy thereof, shall be filed in the office of the Commissioner.

(c) Examination by Commissioner; Approval or Disapproval.—Upon the filing of said certificates and agreement or copy of agreement as aforesaid, and upon the payment to the Commissioner of a fee of one hundred dollars, the Commissioner shall cause to be made an examination of each corporation to determine whether the interests of the depositors, creditors and stockholders thereof are protected and whether such consolidation and merger is made for legitimate purposes; and his consent to or disapproval of such consolidation and merger shall be based upon such examination. No such consolidation or merger shall be made without the approval of the Commissioner; and if his approval be refused, an appeal may be taken therefrom in the same manner as is provided in section 72 of this act.

(d) Issuance of Letters Patent; Recording of Certificate.—if the Commissioner shall approve such consolidation and merger, he shall forthwith notify each of the merging corporations thereof and transmit to the Governor a copy of the agreement of merger and consolidation with his approval certified thereon. Upon the filing by each of the merging corporations with the Secretary of the Commonwealth of a certificate from the Auditor-General setting forth that all reports required by the Auditor-General have been duly filed and all taxes due the commonwealth have been paid by each of said corporations, and upon the payment to the State Treasurer of a bonus of one-third of one per centum on all the corporate stock of the consolidated corporation in excess of the amount of the capital stock of the constituent corporations upon which the bonus required by law has been theretofore paid, the Governor, if he shall approve, shall issue to the consolidated corporation new letters patent and shall transmit to the recorder of deeds of the county or counties where said corporations have their principal places of business the certificate of approval of the Commissioner, endorsed with the date of the letters patent, which certificate shall be recorded and indexed by said recorder or recorders in the manner provided by section 74 of this act for the recording and indexing of certificates of incorporation.

(e) Effect of Merger in General.—When said certificate shall have been recorded as provided in clause (d) of this section, the merger shall be deemed to have taken place and the merging corporations to be one corporation under the name adopted in and by said agreement, possessing all rights, privileges and franchises theretofore vested in each of them; and all the estate and property, real and personal, of each of said corporations shall be deemed and taken to be transferred to and vested in the said new corporation without any further act or deed: Provided, That all rights of creditors and all liens



upon the property of each of said corporations shall continue unimpaired and all debts, duties and liabilities of each of said constituent corporations shall thenceforth attach to said new corporation and may be enforced against it to the same extent and by the same process as if said debts, duties and liabilities had been contracted by it.

(f) Effect of Merger on Trusts.—Whenever a trust company or a state bank possessed of trust company powers shall merge or consolidate with another trust company or state bank under the provisions of this section, all the estate and property, real and personal, held by either of such merging corporations in any trust or fiduciary capacity, shall be deemed and taken to be transferred to and vested in the consolidated corporation, without any further act or deed or any order or decree of any court or other tribunal, and the consolidated corporation shall have and hold the same as fully as the same was possessed and held by the constituent corporation from which it was, by operation of the provisions of this clause, transferred, and said consolidated corporation shall succeed to all the relations, obligations and liabilities, and shall execute and perform all the trusts and duties devolving upon it, in the same manner as though it had itself assumed the relation or trust: Provided, That if, within thirty days after notice to any person or corporation interested in any such trust of the consolidation and merger, such person or corporation shall file a written objection with said consolidated corporation, and shall apply to the proper court or other tribunal having jurisdiction of such trust estate for the appointment of a substituted trustee or other fiduciary, such court or tribunal shall have power to make the appointment of a substituted trustee or other fiduciary and to order said consolidated corporation forthwith to file an account of such trust estate and to pay over and transfer the assets and property thereof to the substituted trustee or fiduciary so appointed.

Note:—This new clause covers the merger of trust companies or banks having trust company powers and makes it optional with the beneficiaries in trust estates to obtain the appointment of new fiduciaries should they object to the consolidated company's continuing to act.

(g) Dissenting Stockholders.—If any stockholder of a corporation which shall become a party to an agreement of merger and consolidation as provided in this section shall be dissatisfied with or object to such merger and consolidation and shall not have voted in favor of the same at the stockholders' meeting, it shall be lawful for such stockholder, within thirty days after the adoption of said agreement by the stockholders as herein provided, to give written notice to the president, cashier or treasurer of the corporation of his desire to surrender his stock upon receiving the value thereof as of the date of said stockholders' meeting; and he shall thereupon be entitled to receive from the corporation the



amount of such value, to be ascertained, if it cannot be agreed upon, by an appraisal made by three persons, one to be selected by such stockholder, one by the board of directors, and the third by the first two. In case the value so fixed shall not be satisfactory to such stockholder or to the board of directors, the dissatisfied party may apply to the court by petition to appoint an assessor or assessors to make a re-appraisal, which, when confirmed by the court, shall be final and binding. In case such application is made to the court, all expenses and costs of the appraisals and of the application shall be paid by the unsuccessful party.

Note:—The method of ascertaining the value of stock of a dissenting stockholder conforms to that provided in clause (c) of section 94 of this Code, relating to state banks becoming national banks, and is substituted for the provisions of the act of 1919 as to appointment of assessors by the court of common pleas in the first instance.

Section 89. Alteration or Revocation of Charter.—The legislature reserves the power to alter, revoke or annul the charter of any bank organized under this act or accepting its provisions, whenever, in the opinion of the legislature, it may be necessary for the public welfare, in such a manner, however, that no injustice shall be done to its stockholders.

Note:—This covers the provisions of section 31 of the act of 1876 (1 Purd. 406) and section 53 of the act of 1850 (1 Purd. 417).

Section 90. Voluntary Dissolution.—Any bank having capital stock may be dissolved and go into liquidation in the following manner:

(a) Call of Stockholders' Meeting.—The board of directors, or any twenty stockholders of the bank, being together the owners of one-twentieth part of the capital stock, or the holders of a majority of the capital stock may at any time call a meeting of the stockholders for purpose of inquiring into the expediency of dissolving the corporation and liquidating and winding up its affairs, giving at least thirty days written notice to all stockholders, specifying the time, place and object of such meeting. Proof by affidavit or return registry receipts of due service of such notice shall be filed in the office of the bank before or at the time of such meeting.

Note:—This and the two following clauses take the place of section 25 of the act of 1876 (1 Purd. 406) section 29 of the act of 1850 (1 Purd. 441), and the act of April 1, 1822 (7 Sm. L. 541; 1 Purd. 441).

(b) Vote of Stockholders; Certificate and Advertisement.—At such meeting, the stockholders shall vote upon the question whether or not the corporation shall be dissolved, the bank closed and the business wound up. The meeting shall be conducted and the vote taken in the manner provided for by clauses (e) and (f) of section 85 of this act, relating to elections of directors, so far as applicable.

If the owners of at least two-thirds in amount of the entire capital stock shall vote in the affirmative on such question, it shall be the duty of the board of directors to cause a copy of the minutes of such meeting, verified by the chairman and secretary of the meeting, together with a certified copy of the resolution of the board of directors, calling such meeting or of the call issued by stockholders, as the case may be, forthwith to be filed with the Commissioner, and to cause notice thereof to be served upon all depositors and other creditors of the bank so far as known to the board of directors, and to be advertised in a newspaper once a week for four successive weeks, calling upon such depositors and other creditors to present their claims for payment.

(c) **Certificate of Dissolution; Distribution of Assets.**—Upon the completion of such advertising and the presentation to the Commissioner of satisfactory proofs of publication, the Commissioner shall forthwith issue to the bank a certificate of dissolution, whereupon the bank shall cease to do business and the board of directors then in office shall thenceforth act as liquidating trustees of the bank, and shall proceed to collect all its assets and distribute the same in accordance with the provisions of section 92 of this act: Provided, That no distribution among stockholders shall be made until the liquidating trustees shall have produced to the Commissioner satisfactory proof that all debts of the bank have been paid, and the Commissioner shall have made an order authorizing distribution among stockholders.

**Section 91. Dissolution on Expiration or Forfeiture of Charter.**—Whenever the charter of a bank shall expire by limitation or shall be forfeited, the affairs of such bank, unless the case be one in which the Commissioner shall be authorized to take possession under the provisions of Article II of this act, shall be liquidated, if the bank be one having capital stock, in accordance with section 90 of this act, or, in the case of a savings bank having no capital stock, in accordance with section 125 of this act.

**Note:**—This takes the place of sections 1, 2, 3, 6 and 7 of the act of April 1, 1822 (7 Sm. L. 641; 1 Purd. 441-2), which provides for the election of liquidating trustees by the stockholders.

**Section 92. Distribution of Assets.**—In case of any distribution of the money, funds, property or other assets, whatsoever, of any bank, in the course of its liquidation, whether voluntary or involuntary, distribution shall (subject to the provisions of section 118, clauses (f) and (h) of this act as to title insurance reserve) be made and preferred in the following order, namely:

**First.** To the payment of all depositors, whether the deposits be subject to immediate check or only payable after specified notice,

or at the expiration of a fixed period, whether or not such notice has been given or such period has expired at the time of such distribution. Bona fide holders for value of certified checks on such bank, or of certificates of deposit issued by it, or of its checks or drafts given in exchange for or in payment of checks or drafts of its depositors drawn on it, not exceeding the balance to the credit of the depositor, shall also be treated and considered as depositors within the meaning of this section. Bona fide holders of outstanding checks drawn by depositors on such bank and not certified shall be subrogated to the rights of the depositors whose checks they hold, but only to the extent of the balances to the credit of such depositors.

Second. To the payment and discharge of all the remaining liabilities of such bank.

Third. The residue, if any, shall be distributed to the shareholders of the bank according to their respective legal rights.

Provided, however, That where trust moneys and property are held by the bank, they shall be kept separate as provided by section 51 of this act and distributed to the beneficiaries accordingly.

Note:—This is founded on section 1 of the act of May 8, 1907 (P. L. 192), as amended by the act of May 23, 1913 (P. L. 354; 7 Purd. 7697), relating to trust companies, and supplies section 28 of the State Bank Act of 1876 (1 Purd. 407).

The new provision as to holders of uncertified checks has been inserted because such holders are fairly entitled to the same priority as the depositors on whose accounts the checks have been drawn.

Section 93. National Banking Associations Becoming Banks under State Laws.

(a) Authority.—Any banking association organized under the laws of the United States and doing business in this state may become a state bank or trust company with all the powers and subject to all the obligations and duties of a state bank or trust company organized under the provisions of this act, provided such banking association has authority by virtue of any law of the United States to dissolve its organization as a national banking association.

Note:—This section is new, there being no similar provision in the existing laws of Pennsylvania.

(b) Procedure.—A national banking association desiring to become a state bank or trust company shall proceed in the following manner:

1. It shall take such action, in the manner prescribed or authorized by the laws of the United States, as shall make its dissolution as a national banking association effective at a future date certain.

2. A majority of its directors shall thereafter, and before the time when its dissolution becomes effective, subscribe and acknow-

ledge in duplicate, upon the authority in writing of the owners of at least two-thirds of its capital stock, the certificate of incorporation required by section 68 of this act, and attach thereto copies of the said written authority of the stockholders, and the resolution fixing the date at which its dissolution as a national banking association shall become effective, executed in the same manner as said certificate.

3. It shall thereupon, and before the time when its dissolution becomes effective, submit such duplicate certificates, with the authority of stockholders and resolution attached thereto, to the Commissioner, and shall pay the Commissioner a fee of one hundred dollars.

4. If the Commissioner shall endorse his approval on the certificate of incorporation as provided in section 71 of this act, and the bank shall within thirty days after notice thereof pay to the State Treasurer such bonus as is or may be prescribed by law, the Commissioner shall thereupon transmit the same to the Governor, who, if he approves the same, shall cause letters patent to be issued as soon as the dissolution of such corporation as a national banking association becomes effective; and its corporate existence as a state bank or trust company shall date from the issuance of such letters patent; but such bank shall transact no business, other than relating to its organization, until the conditions precedent to commencing business prescribed by sections 73 and 74 of this act, relating to the recording of the certificate of incorporation, shall have been complied with.

(c) Property to Vest in State Bank or Trust Company; Directors to Continue.— At the time when the corporate existence of said bank as a bank of this state begins, all the property of the dissolved national banking association shall immediately, by act of law and without any conveyance or transfer, be vested in and become the property of such state bank or trust company. The directors of the dissolved corporation at the time of such dissolution shall be the directors of the state bank or trust company created in pursuance hereof, until the first annual election of directors thereafter, and shall have power to take all necessary measures to perfect its organization and to adopt such regulations concerning its business and management as may be proper and not inconsistent with law.

(d) Effect on Trusts.—When a national banking association authorized under the laws of the United States to act as a fiduciary or do any other trust company business becomes a state bank or trust company in accordance with the provisions of this section, all the estate and property held by such national banking associ-



ation in any trust or fiduciary capacity shall be deemed and taken to be transferred to and vested in such state bank or trust company, in the same manner and subject to the same conditions and limitations as are provided in clause (f) of section 88 of this act, relating to consolidation and merger of state banks and trust companies.

Note:—Since national banks may under federal law obtain the right to do a trust company business, and since state banks have the same right, it is necessary to make specific provisions for the transfer of trust property, duties and liabilities; and the method adopted in the case of merger and consolidation is appropriate here.

#### Section 94. Banks under State Laws Becoming National Banking Associations.

(a) Notice to Commissioner; Certificate of Approval.—Whenever any bank shall have become a corporation for carrying on the business of banking under the laws of the United States, it shall notify the Commissioner of such fact and shall file with him a copy of its authorization as a national banking association, certified by the Comptroller of the Currency, and shall also record a copy of such authorization, so certified, in the office of the recorder of deeds of the county where the place of business of the bank is located. Upon compliance with these provisions, and upon the issuance by the Commissioner of a certificate of approval, showing that the bank has complied with the laws of this commonwealth, such bank shall cease to be a corporation under the laws of this commonwealth. Whenever the Commissioner shall issue such a certificate of approval, he shall forthwith file with the Auditor-General a certified copy thereof.

Note:—This section takes the place of the act of April 26, 1889 (P. L. 56: 1 Purd. 449-50), changes having been made as noted under the various clauses.

In clause (a), the provisions as to recording, approval by the Commissioner and notice to the Auditor-General are new; and the proviso as to continuance of the corporate existence for three years has been omitted as unnecessary.

(b) Stockholders' Meeting; Advertisement.—At the meeting of stockholders called for the purpose of determining whether a bank shall become a national association, the vote shall be taken in the same manner as votes are taken at elections for directors of a bank, as provided in clauses (e) and (f) of section 85 of this act. When, at such meeting, the bank has voted to become a national association, and the directors have procured the authority of the owners of two-thirds of the capital stock to make the certificate required therefor by the laws of the United States, the cashier or treasurer of the bank shall publish notice thereof once a week for four weeks in one newspaper and shall give written or printed notice to each stockholder.

Note:—The first sentence covers the detailed provisions of section 3 of the act of 1889 as to number of votes, proxies, etc. The remainder of the clause takes the place of section 2 of the act of 1889, omitting the provision that the stockholders shall select the newspaper, and leaving the method of serving notices to be covered by the provisions of section 9 of this act.

(c) Dissenting Stockholders.— If, within the period of four weeks notice, any stockholder, who has not joined in giving authority to the directors to make such certificate, shall give written notice to the president, cashier or treasurer of the bank of his desire to surrender his stock upon receiving the value thereof as of the date of said stockholders' meeting, he shall be entitled to receive such value, to be ascertained, if it cannot be agreed upon, by an appraisal made by three persons, one to be selected by such stockholder, one by the board of directors, and the third by the first two. In case the value so fixed shall not be satisfactory to such stockholder or to the board of directors, the dissatisfied party may apply to the court by petition to appoint an appraiser or appraisers to make a re-appraisal, which, when confirmed by the court, shall be final and binding. In case such application is made to the court, all costs and expenses of the appraisals and of the application shall be paid by the unsuccessful party.

Note:—This takes the place of section 4 of the act of 1889, which provides for an appraisement by auditors appointed by the court of common pleas, whose meeting is to be advertised in the newspapers. The clause is modeled to some extent on section 5 of the Act of Congress of July 12, 1882, c. 290, 22 Stat. at L. 162, relating to national banks whose charters are extended.

(d) Value of Fractional Shares.—In adjusting the shares of any stockholder to the value of the shares of the national association, the value of fractional shares of the bank shall be taken to be the same as shall have been ascertained to be the actual value of the shares of refusing stockholders at the time the certificate is filed with the Commissioner, or, if there be no refusing stockholders, then such value shall be ascertained in the manner directed in clause (c) of this section; and on payment of such value, the owner of such fractional shares shall deliver the certificate thereof and transfer such fractional shares to the bank.

If the directors and the holders of fractional shares shall agree upon the value thereof, the payment of such value shall have the same effect as if the value had been ascertained as aforesaid.

Note:—This is derived from section 5 of the act of 1889, with some changes of wording.

It has been considered unnecessary to re-enact the provisions of section 4 that the valuation of the stock shall be its fair market value at the time of paying the last dividend and that the stockholders shall receive such valuation with interest from the time of paying said dividend.

Section 6 of the act of 1889 provides for reduction of capital stock to the extent of the par value of the shares and fractions surrendered, and for its further reduction by purchase and cancellation of shares or by reducing par value. The section also provides that instead of reducing capital stock, the bank may dispose of shares and fractional shares surrendered to any person or persons at par. This whole section has been omitted because, when the bank has become a national association, the reduction of its capital stock is not a matter for regulation by state law.

(e) Publication by Commissioner.—When a bank shall have furnished to the Commissioner satisfactory evidence, by the oaths or affirmations of the president and the cashier or treasurer, and by the exhibition of its books or otherwise, that all the requirements of this section have been complied with, that the bank has become a national association and that the national association has assumed all the debts and liabilities of the bank as provided in clause (f) of this section, the Commissioner shall forthwith cause notice thereof to be published at the expense of the bank in one newspaper once a week for at least four weeks; and upon the completion of such advertisement and the issuance of a certificate of approval by the Commissioner as provided in clause (a) of this section, the charter of the bank shall be deemed to be surrendered.

Note:—This is derived from section 9 of the act of 1889. The Commissioner has been substituted for the Auditor-General and the Governor; the period of advertising has been changed from three to four weeks; and the provisions as to assumption of liabilities by the national association and the certificate of approval are new.

(f) Property to Vest in National Association; Liabilities to be Assumed.—When the charter of a bank shall be surrendered as provided in clause (e) of this section, all its assets, real and personal, shall immediately, by act of law and without any conveyance or transfer, be vested in and become the property of the national association, which shall file with the Commissioner an agreement duly executed and in form approved by the Commissioner, assuming all debts, obligations and liabilities of said bank. Thereafter, such national association may be substituted as plaintiff or defendant in any pending action or proceeding by or against said bank. Such change of a bank to a national association shall not, however, release the bank from its obligation to pay and discharge all liabilities created by law or incurred by it before becoming a national association, or any tax imposed by the laws of this commonwealth up to the date of its becoming a national association, in proportion to the time which has elapsed since the last preceding payment of such a tax, or any assessment, penalty or forfeiture imposed or incurred under the laws of this commonwealth up to the date of its becoming a national association.

Note:—This takes the place of sections 8, 10 and 11 of the act of 1889. The provisions as to assumption of debts and liabilities and substitution in pending suits are new.

Section 7 of the act of 1889, requiring the directors to deliver up all plates and dies to the court of quarter sessions, is obsolete.

#### ARTICLE IV.—STATE BANKS: BANKING POWERS, LIMITATIONS AND REGULATIONS, IN GENERAL.

Section 95. Powers of State Banks.—Every state bank incorporated under the provisions of this act or accepting its provisions as provided by section 6 of this act, shall, in addition to the general corporate powers enumerated in section 81 of this act, have the following powers, to-wit:

(a) Deposits.—To receive money on deposit and to allow interest thereon.

(b) Borrowing Money.—To rediscount, to borrow money, bonds or other securities, and to pledge collateral therefor.

(c) Lending Money.—To lend money on the security of real or personal property.

(d) Dealing in Commercial Paper and Evidences of Debt.—To discount, buy, sell, negotiate and assign promissory notes, drafts, bills of exchange, trade and bank acceptances, bonds, and other evidences of debt.

(e) Exchange.—To buy and sell exchange, coin and bullion.

(f) Interest on Loans.—To charge for the loan or use of money such rate of interest as is now or may hereafter be fixed by the laws of this commonwealth, and to receive and retain in advance the interest on loans and discounts made.

(g) Purchasing and Holding Real Estate.—To purchase, hold and convey real estate as follows:

1. Such as shall be necessary for its present or prospective accommodation in the transaction of its business.

2. Such as shall be mortgaged to it in good faith as security for debts or conveyed to it in satisfaction of debts previously contracted in the course of its business.

3. Such as it shall purchase at sales under judgments, decrees or mortgages held by it, or shall purchase to secure debts due to it.

(h) Improving and Leasing Real Estate.—To improve any real estate held by it for its accommodation in the transaction of its business by erecting a building or buildings or by renewing or replacing any building or buildings thereon with a new or additional structure: to use such portion thereof for the transaction of its business as may be suitable and convenient for that purpose; and to lease and let, from time to time, such portion and apartments of such building or buildings as it may not require for its business and to receive rents for the use thereof.



(i) **Sale of Property; Dealings with Collateral.**—To sell and dispose of real or personal property owned by it; and to purchase, collect, adjust and dispose of any property held as security for obligations due to it.

(j) **Acceptances and Letters of Credit.**—To accept for payment at a future date drafts drawn upon it and to issue letters of credit authorizing the holders thereof to draw drafts upon it or its correspondents.

(k) **Membership in Federal Reserve Bank.**—To become a member of a Federal Reserve Bank as created and established by the Act of Congress approved December 23, 1913, entitled the "Federal Reserve Act," and its supplements and for that purpose to purchase and hold so much of the capital stock of such Federal Reserve Bank as will qualify it for such membership. Any bank which shall become a member of a Federal Reserve Bank shall have and exercise all powers, not in conflict with the laws of this Commonwealth, which are conferred upon any such member bank by the "Federal Reserve Act" and its supplements; but such bank and its officers, directors and stockholders shall continue to be subject, nevertheless, to all liabilities and duties imposed upon them by this act or by any law of this commonwealth.

(l) **Safe Deposit Business.**—To receive, upon terms and conditions to be prescribed by it, upon deposit for safe keeping, bonds, mortgages, jewelry, plate, stocks, securities and valuable papers of any kind, and to let out receptacles for the safe deposit thereof.

(m) **Holding Stock in Banks Engaged in Foreign Business.**—To invest, when a state bank has a capital and surplus of not less than one million dollars, an amount not exceeding in the aggregate ten per cent of its capital and surplus in the stock of one or more banks or corporations chartered or incorporated under the laws of the United States or of any state thereof and principally engaged in international or foreign banking, or banking in a dependency or insular possession of the United States, either directly or through the agency, ownership or control of local institutions in foreign countries or in such dependencies or insular possessions, but only by and with the previous written consent of the Commissioner and under such terms and conditions as he shall prescribe.

(n) **Holding Stock in Real Estate Companies.**—To acquire and hold, when a state bank has a capital and surplus of not less than one million dollars, the whole, but not less than ninety per cent, of, the capital stock of a corporation formed for the purpose of taking and holding title to real estate and erecting or maintaining thereon a building or buildings to be used in whole or in part for the accom-

modation and transaction of the business of such state bank and of any branch or branches thereof.

(o) Incidental Powers; Not to Engage in Trade or Commerce.—To exercise any and all such incidental powers as shall be necessary to carry on its business; but no state bank shall employ its moneys, directly or indirectly, in trade or commerce, by buying or selling goods, wares, merchandise or commodities, by owning or operating industrial plants, or otherwise howsoever, except as authorized by this act.

Note:—This entire section is intended to bring into one orderly arrangement the banking powers of corporations chartered under or accepting this Code.

Clause (a), so far as it relates to interest on deposits, takes the place of the provisions of the act of June 10, 1897 (P. L. 138; 1 Purd. 429), as amended by the act of May 23, 1913 (P. L. 338; 5 Purd. 5350) and extends them to trust companies. Section 7 of the act of 1876 provided that no interest should be paid on deposits except on daily balances of foreign correspondents or correspondents in other states; and section 30 of that act provided that banks chartered under the act should not pay interest on call deposits, on penalty of a forfeiture of the charter.

Clauses (b) to (e) inclusive take the place of that part of section 6 of the act of 1876 which provides that banks formed under that act shall have "all such power as shall be necessary to carry on the business of banking, by loaning money, discounting, selling, buying or negotiating promissory notes, drafts, coin or bullion, bills of exchange and all other written evidences of debt and specialties."

Clause (f) is founded on section 1, clause 2 of the trust company act of May 9, 1889 (P. L. 159; 4 Purd. 4762), which is recited verbatim in section 1 of the act of June 27, 1895 (P. L. 399; 2 Purd. 1669). The act of 1889 was an amendment of section 29 of the general corporation act of 1874, and apparently repealed the act of May 24, 1881 (P. L. 22).

Clause (g) is derived from the first part of section 8 of the act of 1876, amended by the act of April 19, 1901 (P. L. 79; 1 Purd. 401). Clause (h) is founded on section 1 of the act of May 21, 1901 (P. L. 288; 1 Purd. 401), relating to state banks only.

Clause (i) takes the place of the provision of section 7 of the act of 1876 (1 Purd. 401), that a bank may purchase, collect and adjust collateral securities and dispose thereof.

Clause (j) is new.

Clause (k) is derived from sections 1 and 2 of the act of July 17, 1917 (P. L. 1021). The provisions of sections 3 and 4 of that act, relating to examinations and reserve requirements, are covered in the sections of this Code dealing with those subjects.

Clause (l) takes the place of clause 3 of section 1 of the act of May 9, 1889 (P. L. 159; 4 Purd. 4762) and the first paragraph of section 1 of the act of June 11, 1885 (P. L. 111; 4 Purd. 4829), relating to trust companies, and permits state banks to do business of this character. Section 45 of the act of April 29, 1874 (P. L. 95; 4 Purd. 4351), provides that "safe-deposit companies shall have power to receive upon deposit for safekeeping, jewelry, plate, stocks, bonds, notes, and valuable property of every kind, upon terms to be prescribed by the by-laws of such corporation, which by-laws shall, at all times, be posted up in the place or places of business of such corporation." This should not be repealed, since corporations organized to do a safe deposit business only, if there be any such, are not covered by this Code.

Clause (m) resembles section 25 of the Federal Reserve Act, but leaves the details of regulation to the Commissioner.

Clause (n) provides a method whereby a bank may organize a separate corporation to hold title to the real estate used in the bank's business. It is so framed as to oblige the bank to maintain control of such a company in its own hands.

The first part of clause (o) takes the place of the provision in section 6 of the act of 1876 (1 Purd. 400), that a bank shall have power to "transact all such other

business as shall appertain to the business of banking." The last part covers the similar provision of Art. XIII of section 10 of the act of 1850 (1 Purd. 428).

**Section 96. Restrictions on Loans, Investments and Total Liabilities of a Person or Corporation.**

**(a) Limitation of Loans to a Person or Corporation.—**

1. In General.—A state bank shall not directly or indirectly lend to any corporation, person or body politic an amount which, including therein any extension of credit by means of letters of credit or by acceptance of drafts for, or the discount or purchase of the notes, bills of exchange or other obligations of, such corporation, person or body politic, will exceed fifteen per cent. of the capital and surplus of the state bank: Provided, That the restrictions of this clause shall not apply (a) to loans to the United States, the state of Pennsylvania, or any county, city, borough or township of this state, or (b) to the discount of drafts or bills of exchange drawn in good faith against actual existing values, or (c) to the discount of trade acceptances or other commercial or business paper actually owned by the person negotiating the same to the state bank and endorsed by such person without limitation, or (d) to the discount of notes secured by shipping documents, warehouse receipts or other such documents conveying or securing title covering readily marketable non-perishable staples, including livestock, for any one person or corporation or the several members thereof for not more than six months in any consecutive twelve months, when the actual market value of the property securing the obligations is not at any time less than one hundred and fifteen per cent. of the face amount of the notes secured by such documents and when such property is fully covered by insurance: And provided further, That the total liabilities to a state bank of any corporation, person or body politic may equal but not exceed thirty per cent. of the capital and surplus of the state bank if such liabilities in excess of fifteen per cent. of such capital and surplus are secured by collateral consisting of bonds of the United States or of the state of Pennsylvania or of any county, city, borough, township or school district of this state, having an ascertained market value of at least ten per cent. more than the amount of the liabilities so secured.

In computing the total liabilities of any individual to a state bank there shall be included all liabilities to the state bank of any partnership or unincorporated association of which he is a member and any loans made for his benefit or for the benefit of such partnership or association, and all liabilities to the state bank of any corporation of which he owns more than fifty per cent. of the capital stock, or of which he is a director or officer owning more than ten per cent. of the capital stock thereof.

In computing the total liabilities of any partnership or unincorporated association to a state bank there shall be included all liabil-



ities to the state bank of the individual members of such partnership or association and all loans made for the benefit of such partnership or association or any member thereof.

In computing the total liabilities of any corporation to a state bank there shall be included all loans made for the benefit of the corporation and all loans to or for the benefit of any individual who owns more than fifty per cent. of the capital stock thereof, or who is a director or officer owning more than ten per cent. of the capital stock thereof.

Note:—This new clause is derived in part from section 5200 U. S. Rev. Stat. as amended by Acts of Congress of June 22, 1906, September 24, 1918, and October 22, 1919, relating to national banks.

2. Stock of Bank or Trust Company as Collateral.—A state bank shall not take or hold at any one time more than twenty-five per cent. of the total capital stock of another state bank or trust company as collateral security for loans.

Note:—This new clause is intended to prevent large advances on the security of stock of another banking institution.

3. Limitation on Loans Secured by Stock or Obligations of Corporations and Subsidiaries.—A state bank shall not take or hold loans or discounts secured by the stock or obligations of any one corporation or of the subsidiary companies of the same corporation which loans exceed in the aggregate at any one time thirty per cent. of the capital and surplus of such state bank.

Note:—This clause is new and guards against large advances on the securities of one corporation or group of corporations.

(b) Limitations as to Investments in or Loans on Mortgages and Ground Rents—

1. Mortgage or Ground Rent Must be First Lien.—A state bank shall not purchase and hold for investment mortgages on real estate or ground rents issuing out of real estate unless the mortgage or ground rent so purchased is a first lien on said real estate or unless all prior liens against said real estate are already owned by said state bank.

Note:—This takes the place of the provision of section 1 of the act of July 10, 1901 (P. L. 639; 1 Purd. 447), amended by the act of July 24, 1913 (P. L. 972; 5 Purd. 5350) and of section 1 of the act of April 21, 1858 (P. L. 412; 1 Purd. 814), relating to trust companies, that investments may be made in mortgages on "unincumbered real estate" and ground rents issuing out of such real estate.

2. Limitation on Total Amount of Such Investments or Loans.—A state bank shall not hold at any one time investments in or loans secured by mortgages on real estate or ground rents issuing out of real estate to an amount exceeding twenty-five per cent. of the total assets of the bank: Provided, That the limitations of this clause shall not apply to the investment of funds held by a state bank in any fiduciary capacity.



Note :—This is derived from the sources referred to in the last preceding note.

(c) Limitations as to Real Estate.—A state bank shall not

1. Title to Real Estate.—Hold or carry title to any real estate owned by it in the name of any other person or corporation, unless specially authorized by the board of directors.

2. Real Estate for Accommodation of Bank.—Invest in any real estate for its own present or prospective accommodation in the transaction of its business, or partly so used and partly leased to others, a sum of money exceeding in the aggregate at any one time fifty per cent. of its capital and surplus, without the previous written approval of the Commissioner.

3. Five Year Limitation.—Hold possession of any real estate by virtue of a mortgage, or the title and possession of any real estate purchased by it, except such as may be necessary for its present or prospective accommodation in the transaction of its business or partly so used and partly leased to others, for a longer period than five years, without the written approval of the Commissioner.

4. Stock of Real Estate Company.—Invest in the capital stock and obligations of a corporation or corporations owning the real estate used in whole or in part for the transaction of the business of such state bank or any branch or branches thereof an amount exceeding, in the aggregate, fifty per cent. of the capital and surplus of the state bank, nor acquire and hold any of the capital stock and obligations of any such corporation or corporations if the total amount of the capital stock and obligations of such corporation or corporations exceeds in the aggregate fifty per cent. of the capital and surplus of the state bank, without the written approval of the Commissioner. The capital stock of such a corporation or corporations held by a state bank shall not be sold or transferred except as a whole and shall not be pledged without the written approval of the Commissioner, all sales, transfers or pledges in violation hereof being hereby declared to be void.

Note :—These limitations are derived from section 8 of the Act of 1876, amended by the act of April 19, 1901 (P. L. 79; 1 Purd. 401) and section 1 of the act of May 21, 1901 (P. L. 288; 1 Purd. 401), except as to sub-clause 4, which is new.

(d) Limitations as to Acceptances and Letters of Credit.—A state bank shall not

1. Acceptance of Drafts or Bills of Exchange.—Accept for payment at a future date drafts or bills of exchange drawn upon it unless the same have not more than six months sight to run and grow out of transactions involving the importation or exportation of goods or out of transactions involving the domestic shipment of goods and provided shipping documents conveying or securing title are attached at the time of acceptance, or which are secured at the time of acceptance by a warehouse receipt or other such document

conveying or securing title covering readily marketable staples, though such documents may be detached after acceptance.

Note:—This is derived from section 13 of the Federal Reserve Act as amended, the language being modified so as to make it clear that the documents may be detached after acceptance, this being in accordance with the existing practice under said act.

2. Issuance of Letters of Credit.—Issue letters of credit in any transaction involving the importation, exportation or domestic shipment of goods and authorizing the holders thereof to draw upon it or its correspondents, unless there is a bona fide contract for the shipment of goods within a specified reasonable time and the existence of such contract is certified in the acceptance agreement.

Note:—This is derived from section 13 of the Federal Reserve Act as amended.

3. Limitations as to Amount.—Accept drafts or bills of exchange or issue letters of credit for any one person or corporation to an amount at any one time in the aggregate equal to more than fifteen per cent. of the capital and surplus of such state bank, unless it is secured either by attached documents or by some other actual security growing out of the same transaction as the acceptance; and a state bank shall not accept drafts or bills of exchange or issue letters of credit to an amount equal at any time in the aggregate to more than fifty per cent. of its capital and surplus, except that a state bank acting under a general authorization by the Commissioner and subject to such regulations as he may generally provide, may accept drafts or bills of exchange or issue letters of credit to an amount not exceeding in the aggregate at any one time one hundred per cent. of its capital and surplus.

Note:—This is derived from section 13 of the Federal Reserve Act as amended.

(e) Limitations as to Dealings in Bank's Own Stock.—A state bank shall not

1. Purchase or Holding.—Purchase or hold any of the shares of its own capital stock.

2. Loans on Security of Stock.—Make any loan or discount on the security of shares of its own capital stock.

3. Loans to Enable Purchase of Own Stock.—Lend, knowingly, directly or indirectly, any money or property for the purpose of enabling any person to pay for or hold any shares of its capital stock, unless the loan is made upon security having an ascertained or market value of at least ten per cent. more than the amount of the loan.

Note:—Sub-clauses 1 and 2 are derived from section 2 of the act of June 14, 1901 (P. L. 561; 1 Purd. 448), which is substantially the same as section 23 of the act of 1876 (1 Purd. 405).

Sub-clause 3, which is new, is directed at the practice of evading the prohibition of loans on the security of the bank's own stock by making loans on unsecured notes for the purpose of facilitating the purchase of stock of the bank.

(f) **Protection against Loss on Previous Loan or Investment.**—No restriction imposed by this section shall be construed to prevent a state bank, in order to protect itself from loss upon a loan or investment previously made in good faith, from taking and holding any kind of property or security. Any of its own capital stock so acquired shall be sold within one year, and any other property so acquired, which it is not otherwise lawful for the bank to hold, shall be sold within five years, unless the Commissioner shall give written consent to a longer holding.

Note:—This clause is new.

(g) **Property or Securities Acquired before Approval of Act.**—No restriction imposed by this section shall be construed to render unlawful the continued holding of any loans, stock, real estate or securities lawfully acquired prior to the date of the approval of this act.

Note:—This new clause prevents unnecessary disturbance of existing conditions.

**Section 97. Limitations on Loans to Officers, Directors and Employees.**—No officer, director or employee of any state bank shall borrow, directly or indirectly, from such bank any sum of money without the previous affirmative vote or written assent of a majority of the whole board of directors, or the previous affirmative vote or written assent of a majority of the duly authorized finance or executive committee of the board of directors, exclusive, in either case, of any director or directors directly or indirectly interested in obtaining such loan; and if an officer, director or employee of the bank shall be a director of any other corporation and the owner of more than ten per cent. of the capital stock thereof, or shall own more than fifty per cent. of the capital stock thereof or shall be a member of any partnership or unincorporated association, a loan to such corporation, partnership or association shall be considered, for the purpose of this section, as a loan to such officer, director or employee.

Any officer, director or employee of a bank violating the provisions of this section shall be deemed guilty of a misdemeanor and on conviction thereof shall be subject to imprisonment not exceeding one year and to a fine not exceeding five thousand dollars, or either, at the discretion of the court, and to repay forthwith to the bank the amount borrowed in violation of this section, and shall forever thereafter be disqualified from acting as an officer, director or employee of any bank in this state.

Note:—This takes the place of section 1 of the act of June 14, 1901 (P. L. 561; 1 Purd. 405), which repealed the first clause of section 21 of the act of 1876. The

penalty is derived in part from section 22 of the Federal Reserve Act, relating to loans to bank examiners.

The limitations upon the total loaned to officers, directors and employees, contained in the act of 1901, section 23 of the act of 1850 (1 Purd. 426), as amended by section 51 of the same act, and section 1 of the act of April 17, 1861 (P. L. 342; 1 Purd. 426) are recommended for repeal, the subject being sufficiently covered by the provisions of section 96 (a) 3 of this code, limiting the amount of loans to one person or corporation.

Section 98. Purchases and Sales from and to Directors.—Any state bank may contract for the purchase from any of its directors or from a firm of which any of its directors is a member any securities or other property, when such purchase is made in the regular course of business upon terms not less favorable to the bank than those offered to others, and when such purchase is authorized by the affirmative vote or written assent of a majority of the board of directors of such bank not interested in the sale of such securities or property.

Any state bank may sell securities or other property owned or held by it to any of its directors or to a firm of which any of its directors is a member in the regular course of business on terms not more favorable to such director or firm than those offered to others, when such sale is authorized by the affirmative vote or written assent of a majority of the board of directors of such bank not interested in the purchase of such securities or property.

In any transaction between a state bank and any of its directors, the Commissioner may at any time require full disclosure of all details relating to such transaction, together with a full statement as to commissions received or profits realized by any director or directors in connection therewith.

Note:—This follows section 22 of the Federal Reserve Act, as amended in 1918.

Section 99. Purchases of Evidences of Debt below Face Value.—No state bank, nor any director, officer, employee or attorney of any state bank, shall be interested, directly or indirectly, in the purchase of any promissory note or other evidence of debt issued by such bank for less than its face value.

Note:—The provisions of this section are new. Their necessity is obvious.

#### Section 100.—Deposits—

(a) Receipts for Deposits.—Every state bank shall furnish each depositor with a receipt in full, by pass-book or otherwise, for all moneys received as deposits, which deposits, until refunded, shall constitute a liability upon the part of the bank, and a record thereof shall be kept in proper form in books prepared for that purpose.

Any officer or employee of a state bank violating any of the provisions of this clause shall be guilty of a misdemeanor and upon conviction thereof, shall be subject to a fine not exceeding one thousand



dollars, or imprisonment not exceeding one year, or both, in the discretion of the court.

On discovery of any such violation, it shall be the duty of the Commissioner to institute proceedings against the officer or employee guilty thereof.

Note:—The first paragraph is derived from section 1 of the act of June 12, 1907 (P. L. 525; 6 Purd. 7492), which applies to all corporations under the supervision of the Commissioner and to moneys received as dues or on account of installments for any trust or investment as well as to deposits. For the sake of clearness, the word "deposits" has been inserted before "until refunded," and the words "a record thereof" before "shall be kept."

The second and third paragraphs are derived from sections 4 and 5 of the act of 1907. Sections 2 and 3 of that act relate to reports to the Commissioner or other authorities, concealment of assets, etc. These subjects are covered elsewhere in this Code.

(b) Receipts for Money Deposited for Transmission.—Every state bank shall give a receipt to every person depositing money for transmission to a foreign country, which receipt shall show the name and address of the bank, the date of receipt of the money, the name and address of the person to whom the money is to be transmitted and the date not later than which the money is to be transmitted. All moneys received by a state bank for transmission to a foreign country shall be forwarded to the person designated to receive the same within five days after the receipt thereof, unless a later date be fixed in such receipt.

Note:—This corresponds to sections 6 and 7 of the Private Bank Act of 1911, but omits the penal provision of the latter section and permits the fixing in the receipt of a period for transmission longer than five days.

(c) Deposits by or for Minors.—Any state bank may, at its discretion, receive deposits by or on behalf of a minor and provide for the payment of such money, or any part thereof, or any interest accruing thereon, on the check, proper receipt or order of such minor, without the assent or approbation of the parent or guardian of such minor; and it shall not be lawful for such parent or guardian to attach or in any manner interfere with any such deposit.

Note:—This takes the place of section 1 of the act of May 15, 1874 (P. L. 193; 1 Purd. 429), the provisions of that section as to married women being omitted as unnecessary.

(d) Death of One Making Deposit as Trustee.—When a deposit shall be made with a state bank by any person describing himself in making such deposit as trustee for another, and no other or further notice of the existence and terms of a legal or valid trust than such description shall have been given in writing to the bank, in the case of the death of the person making such a deposit, and upon the production to the bank of satisfactory proof of such death, by certificate of a physician or undertaker or otherwise, it shall be the duty of the bank forthwith to report such death to the register of wills of the

proper county, in order that such register may take action to secure the payment to the commonwealth of any collateral or direct inheritance tax which may accrue. Unless, within ten days after such notice, the bank shall be notified to the contrary by said register of wills, it may pay over such deposit or any part thereof and any interest accrued thereon to the person for whose benefit the deposit was stated to have been made, and the receipt of such person shall be a sufficient acquittance to the bank therefor. If, within such period of ten days, said register of wills shall notify the bank not to pay to such person, the bank shall make payment only on the joint check, order or receipt of such person and the executor or administrator of the depositor.

Note:—This new clause covers a subject not dealt with by any existing law in Pennsylvania. The Banking laws of New York, Missouri and California contain somewhat similar provisions.

(e) Joint Deposits.—When a deposit shall be made with a state bank in the names of two or more persons, other than husband and wife, the bank shall not be required to pay the same or any part thereof or any interest accruing thereon, except upon the proper check, order or receipt of both or all of such persons. In case of the death of one of such persons, and upon the production to the bank of satisfactory proof of such death, by certificate of a physician or undertaker or otherwise, it shall be the duty of the bank forthwith to report such death to the register of wills of the proper county. Thereafter, the bank may pay over such deposit or any part thereof and any interest accrued thereon to the survivor or survivors of the depositors, whose receipt shall be a sufficient acquittance to the bank therefor.

When a deposit shall be made with a state bank in the names of two or more persons, and said deposit shall be marked at the direction of the depositors as payable upon check or order of either or any of said depositors, the bank may pay such deposit upon the check or order of either or any of said depositors notwithstanding the fact that one or more of said depositors may be dead; but when the bank acquires actual knowledge of the death of any one of such depositors, it shall be the duty of the bank forthwith to report such death to the register of wills of the proper county.

Note:—This clause is also new and is drawn in conformity with the next preceding clause.

(f) Liability for Non-Payment of Checks.—No state bank shall be liable to a depositor because of the non-payment, through mistake or error and without malice, of a check which should have been paid, unless the depositor shall allege and prove actual damage by reason

of such non-payment, and, in such event, the liability shall not exceed the amount of damage so proved.

Note:—This re-enacts the act of June 12, 1919 (P. L. 453).

Section 101. Banks as Court Depositaries.—Every court in the State of Pennsylvania, into which money may be paid by parties, or be brought by judgment or decree, may, by order, direct the same to be deposited with any state bank; but no state bank shall be authorized to act as depositary of any such money unless it shall first enter into a bond, in such form and amount as may be prescribed by the court, and with one or more sureties approved by the court, conditioned for the proper application of such money, or unless it shall first furnish such other security as may be satisfactory to the court for the proper application of such money.

Note:—This is derived in part from section 2 of the act of April 21, 1903 (P. L. 223; 4 Purd. 4830), relating to trust companies. The latter part of the section is new.

Section 102. Business after Noon on Saturday.—Nothing in any law of this commonwealth shall, in any manner whatsoever, affect the validity of, or render void or voidable, the payment, certification or acceptance of a check or other negotiable instrument by a state bank, because done, performed or transacted on any Saturday between twelve o'clock noon and midnight, provided such transaction would be valid if done or performed at or before twelve o'clock noon on Saturday; and nothing in any law of this commonwealth shall be construed to prevent any state bank from keeping open its doors or transacting its business on any Saturday after twelve o'clock noon, if by a vote of its directors it shall elect so to do.

No state bank which by law or custom ceases to transact business at twelve o'clock noon on any Saturday shall be required to keep open for the transaction of business, or to perform any of the acts or transactions aforesaid on any Saturday after such hour; but all such transactions shall be at the option of such bank.

Note:—This is derived from the act of July 18, 1917 (P. L. 1067), with some changes of wording and the addition of the last clause of the first paragraph, which is part of the proviso to section 1 of the act of February 16, 1911 (P. L. 3; 5 Purd. 6359), which amended the act of June 23, 1897 (P. L. 188; 2 Purd. 1839).

Section 103. Reserve Fund.—All state banks are hereby required to create and maintain a reserve fund, which, in amount and manner, shall be as follows, the Commissioner being hereby authorized to make and enforce rules governing the manner in which the amount of the reserve fund shall be ascertained:

(a) Reserve against Demand Liabilities.—Every state bank receiving deposits of money subject to check or payable on demand shall, at all times, have on hand a reserve fund of at least fifteen per



centum of the aggregate of all its immediate demand liabilities, which liabilities shall include total deposits (demand deposits being hereby defined to comprise all deposits payable within thirty days), all amounts due to banks, the amount due on certified and cashier's checks, and for unpaid dividends, less the following items:

1. Total time deposits, as defined in clause (b) of this section.
2. The amounts due it on demand from banks other than its reserve depositaries, including foreign exchange balances, credited to it and subject to draft.
3. The excess due it from reserve depositaries over the amount required to maintain its total reserves.

The whole of such reserve fund may, and at least one-third thereof must consist of either lawful money of the United States, gold certificates, silver certificates, notes or bills issued by any lawfully organized national banking association or federal reserve bank.

One-third, or any less part thereof, may consist of bonds which are the absolute unpledged property of the state bank at the date of the approval of this act and are issued by the United States or the commonwealth of Pennsylvania, or issued in compliance with law by any county, city, borough, township or school district of this commonwealth, computed at their market value, not exceeding their par value.

The balance of said reserve fund, over and above the part consisting of any of the items hereinbefore enumerated, may consist of moneys on deposit, subject to call, in any state bank, trust company or national bank in the state of Pennsylvania or in any other state, which depositary shall have been approved by the Commissioner.

*Note:—*This is derived from sections 1 and 2 of the act of May 8, 1907 (P. L. 189; 6 *Purd.* 7491), amended by the act of July 11, 1917 (P. L. 791). The definition of demand deposits is taken from section 19 of the Federal Reserve Act as amended; national banks have been added to the list of depositaries; and some changes in phraseology have been made.

(b) *Reserve against Time Deposits.*—Every state bank receiving time deposits of money (which are hereby defined to comprise all deposits payable after thirty days, all savings accounts and certificates of deposit which are subject to not less than thirty days notice before payment, and all postal savings deposits) shall, at all times, have on hand a reserve fund of at least seven and one-half per centum of the aggregate of all its time deposits. Such reserve fund shall be made up in the manner provided by clause (a) of this section for the reserve against demand liabilities.

*Note:—*This takes the place of section 3 of the act of May 8, 1907 (6 *Purd.* 7482), as amended by the act of July 11, 1917 (P. L. 791). The definition of time deposits is taken from section 19 of the Federal Reserve Act as amended.



(c) **No Reserve against Government Deposits Secured by Pledge.**—No reserve fund shall be required against deposits made by the federal or state government or by any municipality of this state, which are secured by the pledge of securities by the state bank, provided such securities are of kinds which might legally constitute part of the reserve fund of the bank under the provisions of this section, or are approved by the Commissioner.

Note:—The propriety of this new provision is evident.

(d) **Deficiency in Reserve Fund.**—If the total reserve fund of any state bank shall be less than the amount required by this section, such bank shall not, while such deficiency exists, increase its liabilities or make purchases of any character otherwise than by dealing in bills of exchange payable at sight.

The Commissioner shall notify any such state bank to make good its reserve fund. If the total reserve fund remains one per cent. or more below the amount required for a period exceeding ten days, the Commissioner may levy an assessment upon the state bank during the period for which the deficiency exists at the rate of six per cent. per annum of any such deficiency not exceeding two per cent. of the deposits, eight per cent. per annum of the amount of any additional deficiency not exceeding three per cent. of such deposits, ten per cent. per annum of the amount of any additional deficiency not exceeding four per cent. of such deposits, and twelve per cent. per annum of the amount of any additional deficiency above four per cent. of such deposits.

Note:—This is founded in part on section 5 of the act of 1907 (6 Purd. 7492). The provisions as to assessments are new.

Section 5 of the act of 1907 provides that if the bank shall fail for thirty days to make good the reserve fund, the Commissioner may proceed against it as provided in section 9 of the act of February 11, 1895, creating the Banking Department, namely, by a receivership.

Section 6 of the act of 1907 provided for the creation of the reserve fund in fractional parts at dates named. No similar provision is necessary in this Code.

(e) **Membership in Federal Reserve Bank.**—Any state bank becoming a member of a Federal Reserve Bank, as provided in clause (k) of section 95 of this act, and complying with the reserve requirements of the "Federal Reserve Act" and its supplements shall be relieved from compliance with the provisions of this section.

Note:—This is the substance of section 3 of the act of July 17, 1917 (P. L. 1021).

Section 104. **Deposits in Other Banks.**

(a) **Unauthorized Deposits to Constitute Loans.**—The deposit of funds by a state bank in any other bank, not duly designated

as a depositary by the board of directors of the depositing bank and approved as such by the Commissioner, shall be held to be a loan, and, as such, subject to the restrictions of section 96 of this act.

(b) **Limitation of Deposits.**—No state bank shall deposit as a reserve or otherwise in any other bank an amount in excess of fifty per cent. of the capital and surplus of such depositary bank, except pursuant to a resolution of the board of directors of the depositing bank.

(c) **Selection of Reserve Depositaries.**—Whenever a state bank selects any other bank as a depositary for its reserve, such selection shall be evidenced by the approval in writing, or by a vote of a majority of the directors, spread upon the minutes of the depositing bank. In case any director of such bank is an officer or director owning ten per cent. or more of the capital stock of the proposed depositary bank, he shall not be qualified to vote in favor of the selection of such depositary.

Note:—This section is new.

#### Section 105. Liabilities and Assets.

(a) **Limitations.**—No state bank shall at any time be indebted or in any way liable to an amount exceeding the amount of its capital stock at such time actually paid in and remaining undiminished by losses or otherwise, except on account of demands of the nature following:

1. Moneys deposited with or collected by the bank.
2. Bills of exchange or drafts drawn against money actually on deposit to the credit of the bank, or due thereto.
3. Liabilities created by the endorsement of accepted bills of exchange, actually owned and discounted by the endorsing bank.
4. Liabilities to the stockholders of the bank for dividends, surplus and undivided profits.
5. Rediscounts or borrowings of money during any continuous period not exceeding three months in any year; and, if the state bank is a member of the federal reserve system, liabilities incurred under the provisions of the "Federal Reserve Act."

Note:—This is derived from section 5202 of the U. S. Revised Statutes as amended in 1918 and 1919. It takes the place of section 17 of the act of 1850 (1 Purd. 435) and section 1 of the act of April 22 1854 (P. L. 467; 1 Purd. 435).

#### (b) Reports and Accounts.

1. **Liabilities to be Set Out in Full.**—In all reports furnished to the Commissioner, the courts of law or other supervisory authorities, the aggregate of the liabilities of a state bank to depositors

shall be set out in full; and it shall not be lawful to reduce the same for the purpose of concealing unadjusted losses, overdrafts, expense charges, or loans, all of which shall be set out in accounts, separate and apart, on the books and reports until adjusted or charged off, and not debited, in any manner whatever, against deposits, or other credits for which the state bank may be liable.

Note:—This is derived from section 2 of the act of June 12, 1907 (P. L. 525; 6 Purd. 7492), limiting the application to banks only.

2. Loans to be Set Out in Full.—Whenever any state bank shall borrow money, the amount of such liability, together with assets assigned or guaranteed for a loan or sale of rediscounts, shall be set out in full on the books and in all reports required by law.

Note:—This is founded on a part of section 3 of the act of 1907 (6 Purd. 7492).

3. Concealment of Assets.—It shall not be lawful for any state bank to conceal any of its assets in any manner whatsoever, but a true record shall be kept of the same. No state bank shall by any system of accounting or any device of bookkeeping, directly or indirectly, enter any of its assets on its books in the name of any other person or corporation, or under any title or designation that is not truly descriptive thereof.

Note:—The first sentence is derived from part of section 3 of the act of 1907 (6 Purd. 7492). The second sentence is new.

4. Book Value of Real Estate. No state bank shall, except with the written approval of the Commissioner, enter or at any time carry on its books any real estate owned by it at a valuation exceeding its actual cost to the bank.

Note:—This and the next sub-clause are new. The penal provisions of sections 4 and 5 of the act of 1907 (6 Purd. 7493), for violations of provisions of the act, are recommended for repeal so far as they relate to banks.

5. Methods of Bookkeeping.—Every state bank shall conform its methods of keeping its books and records to such general rules and regulations and such special orders as the Commissioner may from time to time make and promulgate in conformity to law.

Note:—This is new.

Section 106. Amortization of Securities.—The securities purchased by a state bank shall be entered on its books at the actual cost thereof, and for the purpose of calculating the undivided profits applicable to the payment of dividends, such securities shall not be estimated at a valuation exceeding their present cost as determined by amortization, that is, by deducting from the cost of any such security purchased for a sum in excess of the amount payable

thereon at maturity, and charging to profit and loss, a sufficient sum to bring the security to par at maturity, or by adding to the cost of any such security purchased at less than the amount payable thereon at maturity, and crediting to profit and loss, a sufficient sum to bring the security to par at maturity; provided the market value of such securities is equal to their present cost as determined by amortization. Nothing herein contained shall prevent a state bank from carrying such securities on its books at their market value.

Note:—This section is new.

Section 107. Surplus Fund.—Every state bank shall create a fund to be known as a surplus fund, which fund may be created or increased by contributions, or by transfers from undivided profits, or from net earnings. Such fund, up to twenty-five per centum of the capital of the bank, shall be used only for the payment of losses in excess of undivided profits.

Note:—This section is new.

#### Section 108. Dividends.

(a) Determination of Gross Earnings.—To determine the amount of gross earnings of a state bank for any dividend period, the following items may be included:

1. All earnings actually received during such period, less interest accrued and unpaid included in the last previous calculation of earnings.

2. Interest accrued and unpaid upon debts owing to it secured by collateral, upon which no default of more than one year exists, and upon bonds or other interest-bearing obligations owned by it, upon which no default of more than six months exists.

3. The sums added to the cost of securities purchased for less than par as a result of amortization, provided the market value of such securities is at least equal to their present cost as determined by amortization.

4. Any profits actually received during such period from the sale of securities, real estate or other property owned by it.

5. Sums recovered on items previously charged off, and any amount allowed by the Commissioner on account of assets previously allowed and charged off.

6. Provided the Commissioner shall have approved, and only to the extent of such approval, any actual increase over the book value of real estate owned by it.



Note:—This and the clause next following are new.

(b) **Determination of Net Earnings.**—To determine the amount of net earnings of a state bank for any dividend period, the following items shall be deducted from the gross earnings:

1. All expenses paid or incurred, both ordinary and extraordinary, in the transaction of its business, the collection of its debts and the management of its affairs, less expenses incurred and interest accrued upon its debts deducted at the last previous calculation of net earnings for dividend purposes.

2. Interest paid or accrued and unpaid upon debts owing by it.

3. The amount deducted through amortization from the cost of bonds or other interest-bearing obligations purchased above par, in order to bring them to par at maturity.

4. All losses sustained by it. In the computation of such losses, there shall be included such assets as shall have been disallowed by the Commissioner or by the board of directors of the bank.

The balance thus obtained shall constitute the net earnings of the state bank for such period.

(d) **Determination of Undivided Profits.**—When the net earnings of a state bank have been determined at the close of a dividend period, as provided in clause (b) of this section, if the surplus fund does not equal twenty-five per centum of the capital of the bank, one-tenth of such net earnings shall be credited to the surplus fund, or so much of such net earnings, less than one-tenth, as will make such surplus fund equal twenty-five per centum of such capital. The balance of such net earnings, or the entire amount if such surplus fund equals twenty-five per centum of the capital, may be credited to the profit and loss account of the bank; or, if its expenses and losses for such dividend period exceed its gross earnings, such excess shall be charged to its profit and loss account. The credit balance of such account shall constitute the undivided profits at the close of such dividend period, and shall be available for dividends.

Note:—This clause is new.

(d) **Declaration and Payment of Dividends.**—The directors of any state bank may annually, semi-annually or quarterly in each year, but not more frequently, declare such dividends as they shall judge expedient from the undivided profits ascertained as provided in clause (c) of this section, and pay the same to the stockholders, on demand, at any time not exceeding thirty days after any such dividend is declared.

No state bank shall declare, credit or pay any dividend to its stockholders except out of undivided profits ascertained as above provided; and in case the reserves required by law to be maintained by such bank against deposits are not in hand, no dividend shall be declared until such reserves shall have been made good.

If the directors of any state bank shall declare, credit or pay any dividend in violation of the provisions of this clause, the directors consenting thereto shall be jointly and severally liable in an action of assumpsit or bill in equity, in their individual capacities, to the bank, for the amount of such dividends; and each director present at the meeting when any such dividend shall be declared shall be adjudged consenting thereto, unless he shall forthwith cause his protest to be entered on the minutes of the board and give notice to the Commissioner.

Note:—The first paragraph is derived from section 16 of the act of 1876 (1 Purd. 403), with a change from fifteen to thirty days for the time of payment. The second paragraph and part of the third are new and the remainder of the third paragraph is derived from section 16 of the act of 1876, with changes of language and the substitution of notice to the Commissioner for public notice to the stockholders.

This and the preceding clause take the place of section 24 of the act of 1876 (1 Purd. 406) and Article XII of section 10 of the act of 1850 (1 Purd. 427), so far as they relate to dividends.

(e) Statement by Cashier or Treasurer.—On each dividend day, the cashier or treasurer of every state bank shall furnish to the board of directors a full and explicit statement, certified by him to be correct, of the condition of the bank as it shall be on the last day of the period for which a dividend is to be declared, and showing all items required by this section to be considered by the board of directors in determining whether a dividend is to be declared and the amount thereof.

Note:—This takes the place of section 17 of the act of 1876 (Purd. 404), which enumerates the items to be shown in the cashier's statement.

## ARTICLE V. TRUST COMPANIES

Section 109. General Powers, Limitations and Regulations.—A trust company incorporated under the provisions of this act or accepting its provisions as provided in section 6 of this act shall have the general corporate powers enumerated in section 81, and shall have the powers and privileges and be subject to the limitations and regulations given to and imposed upon state banks by the provisions of Article IV of this act.

Note:—So far as the banking business is concerned, this section puts trust companies on an equal footing with state banks, including the discount privilege. Under

the Code, trust companies will, to all intents and purposes, be state banks with the additional powers conferred by the subsequent sections of this Article.

**Section 110. Powers of Trust Companies in Addition to Those of State Banks.**—A trust company incorporated under the provisions of this act, or accepting its provisions as provided in section 6 of this act, shall have the following powers in addition to those conferred by Article IV of this act:

(a) **To Act as Fiduciary.**—To act as assignee, receiver, guardian, committee, executor, administrator or trustee, and take, accept and execute trusts of every description and act in any fiduciary capacity not inconsistent with the laws of this state or of the United States.

(b) **To Act as Agent for Fiduciary.**—To act as agent for any executor, administrator, guardian, trustee, or other fiduciary in the business of the trust estate.

(c) **To Act as Registrar of Stock, etc.**—To act as agent for the purpose of issuing, countersigning or registering the certificates of stock, bonds or other obligations of any corporation, association or municipality, state or public authority, and to receive and manage any sinking fund thereof on such terms as may be agreed upon.

(d) **To Become Surety on Fiduciary Bonds.**—To become sole surety in any case where by law one or more sureties are or may be required for the faithful performance of the duties of any assignee, receiver, guardian, committee, executor, administrator, trustee or other fiduciary.

(e) **To Become Surety on Court Bonds.**—To become sole surety upon any writ of error or appeal, or in any proceeding instituted in any court of this commonwealth, in which security is or may be required: Provided, That nothing in this clause shall be construed to dispense with the approval of any court or officer now or hereafter required by law to approve such security.

(f) **To Act as Agent or Attorney-in-Fact.**—To act as agent or attorney-in-fact in the purchase and sale of real estate, in the collection of rents and the management thereof, and in the making of investments in stocks, bonds or other securities, the custody thereof, the collection and disbursement of principal and income therefrom, and the sale, transfer or other disposal thereof.

(g) **To Issue Debentures and Guarantee Mortgages.**—To execute and issue its debentures payable at a future date and pledge for the payment thereof bonds secured by mortgages on real estate;

and to guarantee the payment of principal and interest of bonds secured by mortgage upon real estate, and to make and execute such contracts and policies as may be required therefor.

(h) **To Hold Stocks of Other Corporations.**—To hold stocks in corporations when such stocks are taken and received by the trust company in payment for services rendered or as part consideration in the purchase of the obligations of such corporations.

(i) **To Hold Stocks of Title Insurance and Surety Companies.**—To hold, when a trust company has a capital and surplus of not less one million dollars, stock of

1. A company organized to engage chiefly in the insurance of owners of real estate, mortgagees and others interested in real estate from loss by reason of defective titles, liens and encumbrances.

2. A company organized to engage chiefly in the insurance of the fidelity of officials and employees.

3. A company organized to engage chiefly in guaranteeing the payment of the principal and interest of bonds secured by mortgages upon real estate.

(j) **Incidental Powers.**—To exercise any and all such incidental powers as shall be necessary to carry on the business of a trust company.

**Note:**—This takes the place of the following acts and parts of acts which enumerate the powers of title insurance and trust companies: Section 1 of the act of June 11, 1885 (P. L. 111; 4 Purd. 4828); Section 1 of the act of May 9, 1889 (P. L. 159; 4 Purd. 4761); Section 1 of the act of May 29, 1895 (P. L. 127; 4 Purd. 4762); Section 1 of the act of June 27, 1895 (P. L. 399; 4 Purd. 4829-30-32); Section 1 of the act of April 21, 1903 (P. L. 223; 4 Purd. 4830-32).

The title insurance business is covered by Sections 117-118 of this Article; the power to act as surety is restricted to fiduciary bonds and court bonds; and clause (i) is new.

**Section 111. Restrictions on Powers, Loans and Investments.**—

(a) **Limitation of Power to Become Surety.**—A trust company heretofore incorporated under any general or special act of assembly or hereafter incorporated under this act shall not become surety except as specified in clauses (d) and (e) of section 110 of this act.

(b) **Limitation of Investment in Stocks of Certain Corporations.** Such trust company shall not hold at any one time investments of more than ten per cent. of its capital and surplus in the stock of any or all of the following corporations:

1. A company organized to engage chiefly in the insurance of owners of real estate, mortgagees and others interested in real estate from loss by reason of defective titles, liens and encumbrances.

2. A company organized to engage chiefly in the insurance of the fidelity of officials and employees.



3. A company organized to engage chiefly in guaranteeing the payment of the principal and interest of bonds secured by mortgages upon real estate.

(c) Certain Stocks Not to be Held More than Five Years.—Such trust company shall not hold for a longer period than five years, without the written approval of the Commissioner, the stock of any corporation which has been acquired by the trust company as compensation for services or as part consideration in the purchase of the obligations of such corporation.

(d) Limitation of Debentures and Guarantees of Mortgages. Such trust company shall not at any one time have issued and outstanding its debentures secured by mortgages upon real estate or its guarantees of the payment of bonds secured by mortgages on real estate:

1. To an amount exceeding three times the amount of its capital and surplus.

2. The maturities of which falling due in any one calendar year exceed twenty-five per cent. of the amount of its capital and surplus.

3. To an amount at any time exceeding the face value of mortgages pledged for the payment of such debentures.

(e) Limitation of Investment in Mortgages.—No such trust company shall be permitted to invest to an amount exceeding twenty-five per cent. of its total assets, except with the written approval of the Commissioner, in mortgages other than such as are pledged by it to secure its outstanding debentures: Provided, That this restriction shall not prevent a trust company from taking and holding in its own name mortgages upon real estate, to any amount, when such loans are for the account of trust estates managed by such trust company.

(f) Restrictions Not Retroactive.—No restriction imposed by this section shall be construed to render unlawful the continued holding by any trust company of any stocks, securities or real estate lawfully acquired prior to the date of the approval of this act.

(g) Protection against Loss on Previous Loan or Investment.—No restriction imposed by this section shall be construed to prevent a trust company, in order to protect itself from loss upon a loan or investment previously made in good faith, from taking and holding any kind of property or security. Any of its capital stock so acquired shall be sold within one year, and any other property so acquired, which it is not otherwise lawful for the trust company to hold, shall

be sold within five years, unless the Commissioner shall give written consent to a longer holding.

Note:—This section follows, in general, the plan of Section 96 of this Code relating to state banks.

Section 112. Estoppel to Deny Power to Execute Surety Bonds.—No trust company having signed a bond, undertaking or obligation as surety, shall be permitted to deny its corporate power to execute such instrument or incur such liability, in any proceeding to enforce liability against it thereunder.

Note:—This is founded on section 4 of the act of June 26, 1895 (P. L. 343; 4 Purd. 4522), relating to surety companies, with some modification of the language.

Section 113. Capital Taken as Security.—Whenever a trust company shall receive and accept the office or appointment to act in any fiduciary capacity or be directed to execute any trust whatever, the capital of such company shall be taken and considered as the security required by law for the faithful performance of its duties, and shall be absolutely liable in case of any default whatever; and no other or further form of bond or obligation shall be required to be given by it.

Note:—This is Clause II of the act of June 27, 1895 (P. L. 401; 4 Purd. 4831), with some changes in wording and the addition of the last clause.

Section 114. Officers Qualified to Make Oath.—In all cases where a trust company is or shall be charged with the execution of any trust, the president, vice-president, trust officer, assistant trust officer, secretary, assistant secretary, or treasurer or assistant treasurer of such company shall be empowered to make the usual oath or affirmation directed to be taken by private persons in like cases.

Note:—This follows the provisions of the act of February 16, 1877 (P. L. 3; 4 Purd. 4923), omitting the word "actuary," since this position does not exist in modern trust companies, and adding the assistants. The act of 1877 was repealed by the Fiduciaries Act of 1917 so far as it related to trusts within the jurisdiction of the orphans' court. It may now be repealed absolutely.

Section 115. Trust Funds to be Kept Separate.—Every trust company, national bank or other corporation doing a trust company business or acting in any fiduciary capacity in this commonwealth shall keep all trust funds and investments separate and apart from the assets of such corporation; and all investments made by it as fiduciary shall be so designated that the trust to which each such investment belongs shall be clearly known: Provided, That every such corporation shall have the right to clear receipts and payments of trust money in the regular course of business in the same manner as other funds held by it: And provided further, That participation in a general trust fund of legal trust investments may be assigned by such corporation to various estates; in which case it shall be a

sufficient compliance with the provisions of this section for the corporation to designate clearly on its records the securities composing such general trust fund, the names of the trust estates participating therein and the amounts of the respective participations; and in such case no estate so participating shall be deemed to have individual ownership in any specific security in such fund, and the corporation shall have the right at any time to repurchase at market value, but not less than cost price, and in the case of mortgages not less than face value, any such securities from such fund with the right to substitute therefor other legal trust investments at market prices.

Note:—The first part of this section is derived from clause V of Section 1 of the act of June 27, 1895 (P. L. 399; 4 Purd. 4832). The first proviso, which is new, is in accord with the practice which has been followed for years as the simplest method of handling such matters, in order to prevent undue publicity being given to the affairs of trust estates. The second proviso, which is also new, is in accord with a practice recognized by the courts, and enables trust companies to handle investments to the advantage of the trust estates in a way not possible if absolutely separate investments must be made for each trust.

Section 116. Supervision by Court.—Whenever any court shall appoint a trust company, a national bank or any other corporation to act in any fiduciary capacity, such court shall have the right to make or cause to be made an audit or examination of the affairs of any specific trust in the care of such fiduciary: Provided, however, That such court may at any time at its discretion issue under its seal a mandate to the Commissioner, directing him to forward to said court a certified copy of the last report of such corporation filed in his office, which copy shall be filed and kept in the records of the judges of the court, not in the public records, as confidential information for the guidance of the judges; or, at the time any court shall approve any corporation generally to act in fiduciary matters under the control of such court, the court may in its discretion issue under its seal a mandate to the Commissioner directing him to forward to the court such certified copy of the last report of such corporation filed in his office, or requiring him as Commissioner to make or cause to be made through his department an investigation of the affairs and management of such corporation, and to report to the court the manner in which its investments are made and security afforded to those by and for whom its engagements are held. Any such reports shall be filed and kept in the records of the judges of the court, not in the public records, as confidential information for the guidance of the judges.

Any and all expense of such examination or the preparation of such certified copies of reports shall be defrayed by the corporation so examined or reported upon.

Note:—This takes the place of Clause IV of the act of June 27, 1895, amended by the act of June 7, 1907 (P. L. 454; 7 Purd. 7697). The feeling of the Commission is that since trust companies are under the supervision of the Banking



Department, the examination of their assets in order to determine the security afforded by the capital of such companies in lieu of the bonds required of individuals can properly be secured by the courts from the Commissioner, but that the copies of reports should not be made parts of the public records of the courts.

**Section 117. Powers as to Title Insurance.**—Every trust company which at the date of the adoption of this act lawfully possesses the power of insuring owners of real estate, mortgagees, and others interested in real estate from loss by reason of defective titles, liens and encumbrances shall continue to possess such power; but no other trust company shall hereafter have or exercise such power.

**Note:**—The Commissioners are of opinion that the business of insuring titles should not, in future, be carried on by companies acting as fiduciaries. The right of existing trust companies to continue to do a title insurance business is expressly preserved by this section; and a method by which new trust companies may carry on that business by means of a separate corporation is indicated in clause (i) of section 110 of this Code.

By the repeal of the acts giving trust company powers to title insurance companies incorporated under the act of 1874, while leaving in force the original provisions of the act of 1874, this Code does not interfere with the future incorporation of companies to do a title insurance business only.

**Section 118. Title Insurance Reserve.**—

(a) **Reserve Fund Required.**—All companies heretofore or which may hereafter be incorporated for the insurance of owners of real estate, mortgagees and others interested in real estate from loss by reason of defective titles, liens and encumbrances, as well as all title insurance and trust companies heretofore incorporated and authorized by charter or by law to carry on said business, shall from and after the approval of this act establish and maintain a reserve fund for the protection of policy holders, in the manner herein provided.

(b) **Establishment and Maintenance of Fund.**—Said reserve shall be established by setting aside a sum equal to twenty-five per cent. of the premium, (that is, the sum charged for insurance over and above examination fees), paid on each policy of insurance which such company may hereafter issue. Said twenty-five per cent. of each premium shall be known as the reserve, and the aggregate of said reserves of all policies issued and outstanding shall be known as the reserve fund. The reserve of each policy issued shall be maintained so long as liability on said policy shall be outstanding.

(c) **Custody; Supervision by Commissioner.**—The custody of said reserve fund shall be retained by the company and the fund shall be kept separate and apart from the other assets of the company in the manner hereinafter provided. The Commissioner is hereby required from time to time to make investigation to ascertain that a reserve fund equal to twenty-five per cent. of the premiums of all policies outstanding is so maintained. Should any company neglect or refuse to establish or maintain such reserve fund as herein provided, the Commissioner shall by an order under his hand and seal of office di-



rect said company either to comply with the provisions of this section or to discontinue doing a title insurance business.

(d) Investment of Reserve Fund.—Said title insurance reserve fund shall be invested by such companies in first mortgages or other securities designated by law as legal investments for trust funds, and such investment of any accumulated reserve shall be made not less frequently than once in each calendar month.

Said mortgages or other such securities so held shall be carried at cost price, but in no case at less than market price, and in case there shall be a depreciation in the market price of any such securities, such company shall make good any such depreciation by the addition of other securities of like kind, so that the said fund may always be maintained at the full amount required by clause (a) of this section. Such companies shall have the right to withdraw from said fund any mortgages or other securities so held therein by crediting the fund the amount at which such mortgages or securities are valued therein, provided there are immediately substituted therefor other first mortgages or other securities designated by law as legal investments for trust funds.

The securities constituting a reserve fund shall be ear-marked and kept separate and apart from the other assets of the company.

(e) Cancellation of Policy.—Whenever any policy of title insurance hereafter issued is surrendered by the holder, cancelled or liability thereon completely discharged, the Commissioner is authorized to permit the company to withdraw the reserve therefor, or to credit the same against reserves that may be due.

(f) Reserve Fund to be a Trust Fund.—It is the intent and purpose of this section that the reserve fund hereby directed to be set aside shall constitute a separate and distinct trust fund for the protection of policy holders and shall not be subject to distribution among depositors or other creditors, until all policy holders have been paid in full or the liability on the policies, contingent or actual, has been completely discharged.

(g) Reinsurance by Commissioner.—In the event of the Commissioner's taking possession of and winding up any company, the Commissioner is authorized, if it shall seem advisable and practicable to him, to use the entire reserve fund to purchase reinsurance for the liabilities represented by the policies outstanding against such fund. Acceptance of the policy of the reinsuring company shall operate as a complete discharge of liability under the policy of the insolvent company. Should any policy holder refuse to accept the policy of the reinsuring company, he shall only be entitled to receive the pro rata portion of his reserve that shall remain upon distribution as set forth in clause (h) of this section.

(h) Distribution of Reserve Fund.—The reserve fund in the custody of the Commissioner shall be liable only to the following claims:

1. To pay all outstanding claims of indemnity that have arisen by virtue of any policies of insurance.

2. For the purchase of reinsurance to indemnify and protect the remaining outstanding policies.

3. To distribute among policy holders upon cancellation of their policies the proportionate share of the reserve fund to which they are entitled, which shall in no case exceed the proportion which the premium paid for any such policy may bear to the whole amount of title insurance then outstanding.

Note:—This section is drafted in accordance with suggestions received by the Commission at their meeting at Pittsburgh. Under the present law, if a title insurance company becomes insolvent, the policy holders are merely general creditors and as such postponed to depositors. It seems, therefore, only proper that some provision should be made to safeguard policy holders, at least to the extent of a portion of the premium paid by them for protection. The suggestion of some title companies that liability on these policies is remote because doubtful titles are not insured is answered by the fact that within the past few years, both in Philadelphia and in Pittsburgh, defects in titles have arisen, due in some cases to negligent examination of title, and in others to failure to discharge liens.

The New York plan, requiring each title company to set aside as a reserve two-thirds of its capital and surplus, would not be practical in Pennsylvania, where most of the title companies transact a banking business, and so large a proportion of their capital and surplus could not be withdrawn without crippling their right to do banking. New York has taken the farther step of placing title insurance companies under the supervision of the Insurance Commissioner.

Section 119. Acquisition of Trust Company Powers by State Banks.—Any state bank incorporated prior to the date of the approval of this act, accepting the provisions of this act and of the constitution of the commonwealth as provided in section 6 hereof, and any state bank incorporated under the provisions of this act, if it has a capital at least equal to the capital required by section 62 of this act for the incorporation of a trust company in the city, borough or township where the principal place of business of such state bank is located, may, by special permission of the Commissioner, obtain all the powers and become subject to all the restrictions, limitations and regulations of this Article relating to trust companies.

Such special permission may be obtained upon compliance with such rules and regulations as the Commissioner may prescribe; and no trust company powers shall be exercised by any such bank until after a certified copy of such permission shall have been recorded in the office of the recorder of deeds in the manner provided by section 87, clause (a) of this act, relating to amendments of charters.

Note:—This takes the place of the act of July 17, 1919 (P. L. 1032), the repeal of which is recommended.

Section 120. Trust Companies Not to Draft Wills, etc.—

(a) Company Not to Act as Fiduciary under Documents Prepared by Its Officers, etc.—No trust company or other corporation doing or authorized to do a trust company business or acting or authorized to

act in any fiduciary capacity in this Commonwealth, shall be qualified or have power to act in any fiduciary capacity when the will, deed or other instrument appointing it shall have been prepared, written, drafted or transcribed by any officer, agent or employee of such trust company or other corporation.

(b) Officers, etc., Forbidden to Prepare Such Documents.—No officer, agent or employee of any such trust company or other corporation shall prepare, write, draft or transcribe, directly or indirectly, any will, deed or other instrument, wherein such trust company or other corporation is appointed or named as executor, guardian, trustee, assignee, or in any other fiduciary capacity. Any person violating the provisions of this clause shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine not exceeding one hundred dollars and to imprisonment, in default of payment of fine, not exceeding one month.

(c) Exceptions.—The provisions of clauses (a) and (b) of this section shall not be construed to apply to the will of any officer, agent or employee of such trust company or other corporation, nor to any deed or other instrument executed by such officer, agent or employee, nor to any will, deed or other instrument executed prior to the date of the approval of this act, nor to any will, deed or other instrument drafted by a practising attorney-at-law, retained or employed by the client for whom the instrument is drawn.

Note:—This section resembles similar legislation in the banking codes of New York, Missouri and other states. While the court in *Gauler vs. Trust Company*, 28 W. N. C. 208, 9 Pa. C. C. 634, expressly decided that title and trust companies "had no right whatever to do conveyancing, draw deeds, write wills or the like and their conduct in this respect was a usurpation on the Commonwealth," no effective method would seem to exist under the present law to stop that practice except, perhaps, *quo warranto* which, it is submitted, is too extreme a punishment.

## ARTICLE VI. SAVINGS BANKS.

Section 121. General Powers.—A savings bank incorporated under the provisions of this act or accepting its provisions as provided in section 6 of this act shall, in addition to the general corporate powers enumerated in section 81, have the following additional powers:

(a) To receive money on deposit and to invest the same.

(b) To purchase and hold for investment:

1. Bonds or other interest-bearing obligations of the United States or those for which the faith of the United States is pledged to provide payment of the principal and interest thereof.

2. Farm loan bonds issued by Federal Land Banks.

3. Bonds or other interest-bearing obligations of the state of Pennsylvania or of any state of the United States.

4. Bonds or other interest-bearing obligations of any county, city, borough, township or school district of the state of Pennsylvania.



(c) To purchase and hold for investment bonds and mortgages on unincumbered improved real estate situated in the state of Pennsylvania and ground rents issuing out of such real estate.

(d) To make loans on the security of bonds and mortgages on unincumbered improved real estate situated in the state of Pennsylvania.

(e) To purchase, hold and convey real estate as follows:

1. Such as shall be necessary for its accommodation in the transaction of its business.

2. Such as it shall purchase at sales under judgments, decrees or mortgages held by it.

(f) To improve any real estate held by it for its accommodation in the transaction of its business by erecting a building or buildings or by renewing or replacing any building or buildings thereon with a new or additional structure; to use such portion thereof for the transaction of its business as may be suitable and convenient for that purpose; and to lease and let, from time to time, such portion and apartment of such building or buildings as it may not require for its business and to receive rents for the use thereof.

(g) To purchase and hold bankers' acceptances and bills of exchange of the kind and maturities made eligible by law for rediscount with Federal Reserve Banks.

(h) To exercise any and all such incidental powers as shall be necessary to carry on the business of a savings bank.

Note:—Clause (a) is derived from section 15 of the Savings Bank Act of May 20, 1889 (P. L. 246; 1 Purd. 455), and clause (b) from section 17 of that act, with the addition of farm loan bonds and the omission of bonds of municipalities outside of Pennsylvania. The limitation of investments in bonds of other states to those states which have not within ten years made default in payment of principal or interest is also omitted as unnecessary. Clause (c) is also derived from section 17, with the addition of ground rents.

Clause (d) permits loans on mortgage. Clause (e) follows the provisions of section 8 of the act of 1889, omitting the second clause of that section which is covered by clause (d). Clause (f) corresponds to the similar provision as to state banks in section 95, clause (h) of this Code. Clause (g) is new; and clause (h) is derived from section 6 of the act of 1889.

## Section 122. Restrictions on Loans, Investments and Real Estate Holdings.

(a) Loans on Commercial Paper.—Except as provided in clause (g) of section 121 of this act, no savings bank shall lend money deposited with it, or any part thereof, upon notes, bills of exchange or drafts, or discount any such notes, bills of exchange or drafts.

Note:—This is the first part of section 19 of the act of 1889, except as modified by the provision as to section 121, clause (g) of this Code, permitting the purchase of bankers' acceptances and bills of exchange.

(b) Investments Other Than in Mortgages.—A savings bank shall not purchase and hold for investment securities other than mortgages upon real estate and ground rents to an amount exceeding at any time fifty per cent. of the total deposits of such savings bank.

(c) Loans on Mortgage.—A savings bank shall not purchase and hold for investment mortgages, or loan to any one person or corporation upon the security of mortgage, upon real estate of any one person or corporation to an amount exceeding at any time five per cent. of



the total amount of deposits of such savings bank at the time such a purchase or loan is made.

A savings bank shall not loan upon the security of real estate or purchase a mortgage secured upon real estate unless a bond accompanying the same shall be given by the borrower or the owner of the property, and all the expenses of searches, examinations, certificates of title, appraisal of value or title insurance, and of drawing, perfecting and recording papers shall be paid by such borrower.

Whenever buildings are included in the valuation of any such real estate, they shall be insured against fire by the borrower in a company or companies approved by the savings bank, and the policy or policies of insurance shall be duly assigned to the savings bank or the loss made payable to it as its interest may appear. The savings bank may renew such policy or policies from year to year, or for a longer or a shorter time, in case the borrower or the owner of the property shall neglect to do so, and may charge the amount paid to said borrower or owner. All necessary charges and expenses so paid by the savings bank shall be repaid to it by the borrower or the owner of the property and shall be a lien upon the property mortgaged, recoverable with interest from the time of payment as part of the money secured to be paid by such mortgage. The amount of insurance to be carried as aforesaid shall be equal to eighty per cent. of the valuation of such buildings, provided such amount does not exceed the amount of the mortgage.

**NOTE:**—This is derived from sections 19 and 20 of the act of 1889, except as to the first two paragraphs, which are new.

(d) Investments in and Title to Real Estate.—A savings bank shall not:

1. Hold or carry title to any real estate owned by it in the name of any other person or corporation.

2. Invest in any real estate for its own accommodation in the transaction of its business, or partly so used and partly leased to others, a sum of money exceeding in the aggregate at any one time fifty per cent. of the amount of its surplus fund without the written approval of the Commissioner.

3. Hold possession of any real estate by virtue of a mortgage, or the title and possession of any real estate purchased by it, except such as may be necessary for its accommodation in the transaction of its business, or partly so used and partly leased to others, for a longer period than five years without the written approval of the Commissioner: Provided, That this restriction shall not apply to any real estate held by any savings bank before the date of the approval of this act.

**NOTE:**—This follows the provisions of the first three sub-clauses of section 96, clause (c) of this Code, except that, in sub-clause 2, fifty per cent. of the surplus fund is substituted for fifty per cent. of the capital and surplus.

(e) Purchases of Acceptances and Bills of Exchange:

1. A savings bank shall not purchase and hold bankers' acceptances and bills of exchange unless the same are accepted by a state bank or trust company incorporated under the laws of this commonwealth or by a national banking association having its principal place of business in this commonwealth.

2. A savings bank shall not purchase and hold bankers' acceptances or bills of exchange in an amount exceeding at any one time twenty per cent. of the total amount of deposits of such savings bank.

3. A savings bank shall not purchase and hold the acceptances of any state bank, trust company or national banking association to an amount exceeding at any one time twenty-five per cent. of the paid-up capital and surplus of such acceptor.

NOTE:—This new clause limits the power given by clause (g) of section 121 of this Code.

(f) Protection against Loss on Previous Loan or Investment. No restriction imposed by this section shall be construed to prevent a savings bank, in order to protect itself from loss upon a loan or investment previously made in good faith, from taking and holding any kind of property or security. Any property so acquired, unless of a character to be a legal investment for such savings bank, shall be sold by it within five years, unless the Commissioner shall give written consent to a longer holding.

NOTE:—This corresponds to clause (f) of section 96 of this Code, relating to state banks.

(g) Property or Securities Acquired before Approval of Act. No restriction imposed by this section shall be construed to render unlawful the continued holding of any loans, securities or real state lawfully acquired prior to the date of the approval of this act.

NOTE:—This corresponds to clause (g) of section 96 of this Code, relating to state banks.

Section 123. Trustees.

(a) Incorporators to be First Board of Trustees.—The persons named in the certificate of incorporation of a savings bank, as provided by clause (b) of section 67 of this act, shall be the first trustees of such savings bank and shall have the entire management and control of all its affairs, subject to the provisions of this act.

NOTE:—This is derived from section 9 of the act of 1889.

(b) Filling Vacancies; Eligibility.—All vacancies in the board of trustees of a savings bank by death, resignation or otherwise,

shall be filled by the board as soon as practicable at a regular meeting after such vacancies occur.

No person shall be elected to fill such a vacancy unless he shall be a citizen of the United States and a bona fide resident of the commonwealth of Pennsylvania; and removal from the state by any trustee so elected shall vacate his office.

NOTE:—The first paragraph is derived from section 11 of the act of 1889, and the second from section 28 of that act, with the addition of the provision as to citizenship.

(c) Change in Number of Trustees.—Subject to the approval of the Commissioner, the board of trustees of any savings bank may, by resolution adopted by a majority of the board, a copy whereof shall be filed with the Commissioner, reduce the number of trustees named in the certificate of incorporation to any number not less than fifteen, such reduction to be effected gradually by the occurrence of vacancies by death, resignation or otherwise.

The number of trustees may be increased, by resolution similarly adopted, to any number designated in the resolution, with the approval of the Commissioner.

NOTE:—This is derived from section 26 of the act of 1889, the Commissioner being substituted for the Auditor-General.

(d) Conduct of Trustees; Compensation.—No trustee of any savings bank shall have any interest whatever, direct or indirect, in the gains or profits thereof, otherwise than as a depositor, nor shall he directly or indirectly receive any pay or emolument for his services, except as hereinafter provided; and no trustee or other officer of any savings bank shall, directly or indirectly, for himself or as the agent or partner of others, borrow any of its funds or deposits or in any manner use the same except to make such current and necessary payments as are authorized by the board of trustees; and any trustee violating any of the provisions of this paragraph shall be deemed guilty of a misdemeanor and on conviction thereof shall be subject to imprisonment not exceeding one year and to a fine not exceeding five thousand dollars, or either, at the discretion of the court, and to repay forthwith to the savings bank any amount received or borrowed in violation of any of the provisions of this paragraph.

No trustee or other officer of any savings bank shall become an endorser or surety or in any manner an obligor for moneys loaned by or borrowed from such savings bank.

Trustees of a savings bank, acting as officers of the same, whose duties require and receive a regular and faithful attendance at the institution, may receive such compensation as in the opinion of a majority of the board of trustees shall be just and reasonable; but

such majority shall be exclusive of any trustee to whom such compensation shall be voted.

Any savings bank, by a vote of a majority of its trustees, may allow and pay to its trustees compensation for their services as such, with the approval of the Commissioner.

Note:—This is derived from sections 12 and 27 of the act of 1889. The penalty of the first paragraph is modeled upon that of section 97 of this Code. Section 27 declares that it shall not be lawful to pay trustees as such for attendance at meetings of the board; but in view of the general act of May 17, 1917 (P. L. 228), it has been considered proper to follow the provisions of clause (1) of section 85 of this Code, adding the requirement that the approval of the Commissioner shall be obtained.

(e) Disqualification of Trustees.—Whenever a trustee of any savings bank shall become a trustee, officer, clerk or employee in any other savings bank, or upon his borrowing directly or indirectly any of the funds of the savings bank of which he is a trustee, or becoming a surety or guarantor for any money borrowed of, or a loan made by such savings bank, or upon his failure to attend the regular meetings of the board or to perform any of the duties devolving upon him as trustee for six successive months without having been previously excused by the board for such failure, the office of such trustee shall thereupon immediately become vacant; but a trustee vacating his office by failure to attend meetings or to discharge his duties may, in the discretion of the board, be eligible for re-election.

Note:—This is derived from section 13 of the act of 1889 with slight changes of wording.

(f) Liability of Trustees upon Insolvency.—If the insolvency of any savings bank be occasioned by the fraudulent conduct of the trustees, those trustees by whose acts or omissions the insolvency was in whole or part occasioned shall each be liable to the depositors and creditors of the savings bank for his proportional share of the losses, the proportion to be ascertained by dividing the whole loss among the whole number of directors liable for its reimbursement.

Note:—This is the last paragraph of section 11 of the act of 1889, slightly modified in phraseology.

#### Section 124. Deposits.

(a) Interest; Surplus Fund.—It shall be lawful for a savings bank to credit and pay interest on deposits. The trustees shall regulate the rate of interest, not to exceed five per centum per annum, upon the deposit, in such manner that the depositors shall receive, as nearly as may be, all the profits of the savings bank after deducting necessary expenses and reserving such amount as the trustees may deem expedient as a surplus fund for the security of depositors, which, to the amount of fifteen per centum of the deposits, the trustees are hereby authorized gradually to accum-



ulate and hold to meet any contingency or loss in the business, from the depreciation of securities or otherwise.

The trustees of any savings bank may classify its deposits according to the character, amount and duration of their dealings with the savings bank, and regulate the interest allowed in such manner that each depositor shall receive the same ratable proportion as all others of the same class. It shall be unlawful for the trustees to declare or allow interest on any deposit for a longer period than the same has been deposited; and no interest shall be declared, credited or paid except by the authority of a vote of a majority of the board of trustees, duly entered upon their minutes, whereon shall be recorded the yeas and nays upon each vote; and whenever any interest shall be declared and credited in excess of the interest or profits earned and appearing to the credit of the savings bank, the trustees so voting for such interest shall be jointly and severally liable to the savings bank for the amount of such excess, so declared and credited.

It shall be the duty of the trustees of any savings bank, whose surplus amounts to fifteen per centum of its deposits, at least once in three years to divide, equitably, the accumulation beyond such authorized surplus as a dividend to depositors in excess of the regular interest hereinbefore provided.

A notice posted conspicuously in the banking room of a change in the rate of interest shall be equivalent to a personal notice.

Note:—The first sentence is derived from section 15 of the act of 1889 and the remainder of the clause from section 22 of that act omitting the words "per annum" after "fifteen per centum," as misleading.

(b) Regulation and Repayment.—Deposits, together with the interest credited thereon, shall be repaid to the depositors respectively, or to their legal representatives, after demand in such manner, at such times, after such previous notices, and under such regulations as the board of trustees shall prescribe.

The regulations shall be printed in the passbooks or other evidences of deposit furnished by the savings bank, and shall be evidence between the savings bank and depositors holding the same of the terms upon which deposits therein acknowledged are made.

Every savings bank shall have the right to limit the aggregate amount which any one person or corporation may deposit to such sum as the board of trustees may deem it expedient to receive, and may refuse to receive a deposit, and may at any time return all or any part of any deposit; and the aggregate amount of deposits to the credit of any one person or corporation shall not at any one time exceed five thousand dollars exclusive of accrued interest.

Note:—This conforms to the provisions of section 15 of the act of 1889.

## Section 125. Voluntary Dissolution.

(a) Resolution of Trustees; Notice to Depositors and Creditors.—Whenever the trustees of any solvent savings bank shall deem it necessary and expedient to close the business thereof, they may, by affirmative vote of not less than two-thirds of the whole number of trustees, at a meeting to be called for that purpose, of which all the trustees shall have notice, declare by resolution the determination of the savings bank to close its business and pay the money to the depositors and creditors and surrender the corporate franchise. The vote upon such resolution shall be taken by yeas and nays, and the resolution and the votes thereon shall be recorded in the minutes of the board, and a copy of the record of such proceedings, certified by the president and secretary of the savings bank, shall be filed with the Commissioner. The trustees shall thereupon give notice to all the depositors and creditors of the adoption of such resolution by publication thereof in two newspapers and by written or printed notices to the depositors and creditors.

Note:—This is the first part of section 30 of the act of 1889.

(b) Certificate of Dissolution: Distribution of Assets.—Upon the completion of such advertising and the presentation to the Commissioner of satisfactory proofs of publication and of service of notices, the Commissioner shall forthwith issue to the savings bank a certificate of dissolution, whereupon the bank shall cease to do business and the board of trustees then in office shall thenceforth act as liquidating trustees of the bank, and shall proceed to collect all its assets and distribute the same in accordance with the provisions of section 92 of this act: Provided, That when distribution has been made as aforesaid and said trustees have complied with the laws of this Commonwealth relating to escheats, the franchise of such savings bank shall be deemed to have been surrendered and the existence thereof terminated.

Note:—This takes the place of the last part of section 30 of the act of 1889. Except for the proviso, it follows the provisions of clause (c) of section 90 of this Code.

Section 126. Matters Not Specifically Covered by This Article.—Savings banks shall be subject to the provisions of sections 87, 100, 102, 103 and 106 of this act, so far as the same are not in conflict with the provisions of this Article.

Note:—This section has been drafted to avoid repeating in this Article the sections covered by the cross references.

## ARTICLE VII. UNINCORPORATED BANKS.

### Section 127. Right to Do Business.

(a) No New Unincorporated Banks.—From and after the date of

approval of this act, no new unincorporated bank shall be established, and no individual, partnership or unincorporated association shall engage, directly or indirectly, in the business of banking or of receiving deposits of money for safe keeping or for the purpose of transmission to another, or for any other purpose, except as provided in clause (c) of this section.

(b) Existing Unincorporated Banks.—Unincorporated banks lawfully engaged at the date of the approval of this act in a banking business and actually transacting the same may continue in such business at the places where they are now located, under and subject to the provisions of this act.

(c) Exemptions.—None of the provisions of this article shall apply to any express company or telegraph company receiving money for transmission; nor to any hotel-keeper who shall receive money for safe keeping from a guest; nor to any individual, partnership or unincorporated association licensed under the laws of this commonwealth to do a brokerage business, holding a membership in a lawfully incorporated brokerage exchange, and not doing any banking business as defined by this act.

None of the provisions of this Article except those of sections 128, 131, 132, 134, 135, 138, 140, 141 and 147, shall apply to any individual, partnership or unincorporated association engaged in business as a private banker or private bankers on the 19th day of June, 1911, if such individual, partnership or unincorporated association and his or their predecessor or predecessors, or one or more of the members thereof, had continuously and in the same locality conducted the business since a date not less than seven years prior to the 19th day of June, 1911, and such individual, partnership or unincorporated association was not, on the 19th day of June, 1911, engaged in the sale, as agent or otherwise, of railroad or steamship tickets: Provided, That any unincorporated bank exempted by this section may upon application to the Commissioner and on acceptance of all the terms of this act become subject to all of its provisions.

Note—This Article takes the place of the act of June 19, 1911 (P. L. 1060: 5 Purd. 5350-54). The changes are noted under the various sections.

Clause (a) of the present section forbids the establishment of any new private banks and therefore involves the repeal of all provisions of the act of 1911 relating to the granting of licenses.

Clause (b) permits private banks now lawfully in business to continue.

Clause (c) embodies such of the exceptions contained in section 8 of the act of 1911 as it is necessary to re-enact. The provision of that section for exemption from supervision by filing a bond or depositing securities is omitted.

Section 128. Changes in Partnership.—Neither death nor withdrawal of a partner nor the admission of a new partner shall change the status of any existing unincorporated bank as a partnership under the provisions of this act, nor work a dissolution of such



partnership if all the remaining partners elect to continue the same and assume or discharge all of its obligations.

In case of any change in the partnership by death, sale or otherwise, a new statement, in accordance with section 130 or section 131, as the case may be, shall forthwith be filed with the Commissioner, under the penalty provided in section 132, and a certificate of authorization or exemption, as the case may be, shall be obtained in accordance with section 133 or section 134.

Note:—This section is new.

**Section 129. Unincorporated Banks Must Be Partnerships.**—From and after January 1, 1923, no unincorporated bank shall be continued or carried on by an individual or an unincorporated association or otherwise than by at least three individuals, who shall be general partners and at least a majority of whom, in number and interest, shall be citizens of the United States, and at least two of whom shall be bona fide residents of the state of Pennsylvania; and no one, of at least three, of the members of said partnership shall be the owner of less than a five per cent. interest in such unincorporated bank.

Note:—The Commissioners are of opinion that a banking business should not be conducted by one individual or by an informal, unincorporated association. The complications arising in case of death in the first instance, and the difficulty of enforcing obligations in the second, make it desirable that in every case a bank which is not incorporated should be carried on by a general partnership and that at least three of the partners should have substantial interests in the bank. Furthermore, the rights of depositors and creditors will be clearly defined in the marshalling of partnership and individual assets. Ample time is allowed for the formation of partnerships.

**Section 130. Statement to be Filed.**—On or before December 31, 1922, every unincorporated bank in the state of Pennsylvania, except those exempted by clause (c) of section 127 of this act, shall file with the Commissioner a verified statement in duplicate, which shall set forth:

(a) **Name.**—The name of the bank, which shall be in form, "The \_\_\_\_\_ Banking Company of \_\_\_\_\_, Unincorporated," or the name by which the bank is known at the date of the approval of this act, followed by the word "Unincorporated," where required under the provisions of section 136 of this act, which name thereafter may be changed only with the consent of the Commissioner.

(b) **Partners.**—The full name, residence and post office address of each member of the partnership, and the citizenship of each.

(c) **Place of Business.**—The county, and the city, borough or township in which the business is carried on, with the street number or other local designation therein of the place of business of the unincorporated bank.

(d) **Capital.**—The amount of permanent capital actually paid in



and remaining in its possession, bona fide, as its property, for its sole purposes.

(c) Individual Responsibility.—A statement of the responsibility and net worth of the individual members of the partnership, together with a detailed statement of the resources and liabilities of the unincorporated bank.

(f) Articles of Agreement.—A duplicate of the articles of co-partnership or agreement under which the business of the bank is being or is to be conducted, which shall be executed and acknowledged by all the partners, and which shall set forth the amount of the interest of each partner, and may, subject to the approval of the Commissioner, provide for the selection by the partners of a board of managers, consisting of not less than three of the partners, and for the employment of a cashier and such other agents and employees as may be necessary.

(g) Managers, Officers and Employees.—If not disclosed in the articles of co-partnership or agreement, then the name, residences and post office addresses of the board of managers, if any, chosen for the first year, and of the officers, agents or employees in active charge and management of the business.

Said statement shall be verified by the oaths or affirmations of all the members of the partnership, upon a form prescribed by the Commissioner, which shall state that the affiants have read the statement and that the facts therein set forth are true.

Note:—The statement required by this section corresponds as nearly as may be to the certificate of incorporation of an incorporated bank, and will put upon record in the office of the Commissioner full information as to every unincorporated bank subject to the supervision of the Department, including the paid-in capital, the net worth of the partners, and the terms of the partnership agreement.

Section 131. Statement of Exempted Unincorporated Banks.—On or before December 31, 1921, every unincorporated bank exempted by clause (c) of section 127 of this act, or claiming to be so exempt, shall file with the Commissioner a verified statement in duplicate, setting forth in detail the facts upon which such exemption is based or claimed, and the matters specified in clauses (a), (b) and (c) of section 130 of this act.

Note:—Compliance with this section will furnish the Commissioner with a record of the names, partners and places of business of the banks not subject to his supervision, with a statement, in each instance, of the grounds upon which the exemption is claimed.

Section 132. Business Prohibited unless Statements Filed.—From and after the dates mentioned in sections 130 and 131 of this act, respectively, no unincorporated bank shall continue in business unless it shall have filed with the Commissioner the statement required of such bank by section 130 or section 131, as the case may be; nor, although it shall have filed such certificate, shall an unincorporated

bank subject to the provisions of section 130 continue in business after December 31, 1922, unless it shall have obtained from the Commissioner a certificate of authorization as hereinafter provided, or an unincorporated bank exempted by clause (c) of section 127, unless it shall have obtained from the Commissioner a certificate of exemption as hereinafter provided.

Note:—This furnishes the method of enforcement of sections 130 and 131, as well as sections 133 and 134.

Section 133. Certificate of Authorization.—Upon receipt by the Commissioner of the statement required by section 130 of this act, he shall issue his certificate authorizing the unincorporated bank, subject to the provisions of this act, to continue its business, provided it shall appear that the provisions of this Article have been complied with by the applicant, that the terms of the articles of co-partnership or agreement set forth in said statement are in form binding upon the parties thereto and not in contravention of this act or of public policy, and that the financial condition and responsibility of said unincorporated bank and of the individual partners are such as to warrant a continuance of the business.

Said statement may be amended for any defect in form or substance on application to the Commissioner and for proper cause shown.

In case the Commissioner shall refuse to issue the certificate of authorization as aforesaid, he shall forthwith give notice thereof in writing, stating his objections in detail, to such unincorporated bank, which shall have the same right to appeal and in the same manner as is provided by section 72 of this act.

Note:—Under the provisions of this section, the Commissioner is given power to determine whether an existing unincorporated bank, subject to the supervision of the Department, should be authorized to continue in business. The right to appeal from an adverse decision by the Commissioner is secured.

Section 134. Certificate of Exemption.—Upon receipt by the Commissioner of the statement required by section 131 of this act, if he shall find that the unincorporated bank filing such statement is entitled to exemption under clause (c) of section 127 of this act, he shall issue his certificate so stating.

Note:—A bank not subject to the supervision of the Department will, under this section, be furnished with evidence of its exemption.

Section 135. Certificate and Statement to be Posted.—Every unincorporated bank shall at all times keep posted in the room in which it transacts its business and in plain view of its customers the certificate of authorization issued by the Commissioner pursuant to section 133 of this act, with a statement of the names of all the members of the partnership, that the resources of the bank are pledged for

its liabilities, and that the individual assets of the partners are additional security for its obligations, or the certificate of exemption issued by the Commissioner pursuant to section 134 of this act.

Note:—This corresponds to the provision of section 1 of the act of 1911 requiring the license certificate to be posted.

Section 136. “Unincorporated” to be Part of Name.—From and after December 31, 1921, every unincorporated bank shall use the word “unincorporated” immediately following the name under which it does business.

Note:—The Commissioners consider it proper that every person dealing with an unincorporated bank should have notice of the fact that the bank is not a corporation.

Section 137. Capital.—No unincorporated bank subject to the provisions of this act shall continue in business after December 31, 1922, unless it shall have a capital actually paid in and remaining in its possession, bona fide, as its property and to be used for its sole purposes and for the security of its depositors and other creditors, of not less than ten thousand dollars in any city, borough or township, the population of which does not exceed five thousand inhabitants, nor less than twenty-five thousand dollars in any city, borough or township having a population between five thousand and fifty thousand inhabitants, nor less than fifty thousand dollars in any city, borough or township having a population exceeding fifty thousand inhabitants.

Such capital shall at all times be segregated from all other property or business of the members of the partnership and shall be kept and maintained unimpaired for the security of depositors and other creditors of such unincorporated bank.

From time to time, with the written consent of the Commissioner and upon cause shown, the capital of an unincorporated bank may be increased. In like manner, such capital may be decreased, provided such decrease does not bring such capital below the minimum required for such unincorporated bank by the provisions of this section.

Note:—These provisions, requiring a minimum capital, which shall be segregated and kept unimpaired, and which may not be decreased without the consent of the Commissioner, should tend to protect depositors and others dealing with unincorporated banks. Ample time is given to enable existing banks to bring their capital up to the minimum.

Section 138. Contract Provisions as to Ascertainment of Value of Partner's Share.—Nothing contained in this act, through the increase of the capital or surplus, or otherwise, of any unincorporated bank coming under its provisions, shall have the effect of rendering inoperative the lawful terms of any contract among partners, existing at the date of the approval of this act, as to the methods of ascertaining the true value of any partner's interest in the co-partner-



ship in case of the withdrawal or death of such partner, without the consent of all the partners thereto.

Note:—This section is for the protection of partners in existing unincorporated banks.

**Section 139. Bonds of Officers and Employees.**—All officers of every unincorporated bank, other than members of the firm, and such employees as shall, with the approval of the Commissioner, be designated by the partners, shall be required to furnish bonds the same as those required of officers and employees of incorporated banks under the provisions of section 84, clause (d), of this act.

Note:—There is no reason why unincorporated banks should not be subject to the same provisions as to the bonding of officers and employees as apply to banks which are incorporated.

**Section 140. Changing Place of Business.**—No unincorporated bank shall transact a banking business except at the place designated in the certificate of authorization or exemption issued by the Commissioner as provided by section 133 or 134 of this act, unless such place of business shall be lawfully changed in the following manner:

Any unincorporated bank may remove the location of its place of business to any other place within the same city, borough or township, upon filing with the Commissioner an application for such removal, signed by all the members of the partnership, upon receipt of which the Commissioner shall issue a certificate of removal as requested, provided the place to which the removal is proposed to be made be one not prohibited by any provision of this act.

Any unincorporated bank may remove the location of its place of business to any place within the same county, but outside of the city, borough or township, by filing an application and obtaining a certificate of removal as aforesaid, and, in the case of an unincorporated bank not otherwise subject to all the provisions of this act, by accepting such provisions; but such change of location shall not be made until the Commissioner shall be satisfied that the same will serve the convenience and advantage of the public, that the density of the population in the neighborhood designated for the new place of business and in the surrounding country affords a reasonable promise of adequate support for the enterprise, and that the capital equal or exceeds the minimum required by law for an unincorporated bank located in the place to which removal is proposed to be made.

When any change of location of place of business of an unincorporated bank is made under the provisions of this section, the Commissioner shall forthwith notify the Auditor-General thereof.

Note:—The Commissioners consider it desirable that an unincorporated bank should not be permitted to do business except at its regular place of business, and that any change of such place should be subject to the supervision of the Banking Commissioner as in the case of incorporated banks.



**Section 141. Branches Forbidden.**—No unincorporated bank shall establish or maintain any branch or any agency for the purpose of discount or deposits; and any unincorporated bank violating the provisions of this section shall be subject to a penalty of one hundred dollars for each day during which any such branch or agency shall be open or occupied, said penalty to be payable to the Commissioner and recoverable by him by action at law. In addition to said remedy, a court of competent jurisdiction may, on bill filed by the Commissioner, issue an injunction restraining any unincorporated bank from establishing or maintaining a branch or agency, and may make such other order or decree as equity and justice may require.

**Note:**—In the opinion of the Commissioners, no branches of unincorporated banks should be allowed. The penalty and the remedy provided by this section are the same as those for the unauthorized establishment or maintenance of a branch by an incorporated bank.

**Section 142. Title to Property.**—No property, real or personal, owned by an unincorporated bank, shall be held in the name of any individual or member of the partnership; but all such property shall be held in the registered name of the co-partnership, or in the names of the members of the co-partnership, followed by the words, “co-partners, doing business as,” and the name of the unincorporated bank.

**Note:**—In line with the provision of section 137 for segregation of capital, this section provides that title to all property shall be held in the name of the bank.

**Section 143. Powers and Limitations as to Real Estate, Loans and Investments.**—The powers of unincorporated banks as to the purchase and holding of real estate and the improvement thereof, and as to the making of loans upon or investments in mortgages and ground rents, and the limitations upon the loans which may be made by an unincorporated bank to any corporation or person, shall be the same as those provided by sections 95 and 96 of this act as to state banks, save that the percentages shall be calculated on the paid-in capital of the unincorporated bank and the net worth of the partners as individuals.

**Note:**—This puts unincorporated banks on the same footing as state banks with regard to holdings of real estate, the improvement thereof and loans and investments. The net worth of the partners as individuals is used as a basis for the limitations instead of the surplus of incorporated banks.

**Section 144. Distribution of Assets.**—The depositors in any unincorporated bank shall be first paid out of the assets of such bank in any proceeding for winding up its business, to the amount of their several deposits; and for any balance remaining unpaid, such depositors shall share in the general assets of the members of the partnership pro rata with the general creditors of such partners.

**Note:**—This gives depositors priority as to the assets of the bank and makes them general creditors of the individual partners as to any balance not paid out of the unincorporated bank assets.

**Section 145. Receipts for Money Deposited for Transmission.**—Every unincorporated bank shall give a receipt to every person depositing money for transmission to a foreign country, which receipt shall show the name and address of the bank, the date of receipt of the money, the name and address of the person to whom the money is to be transmitted and the date not later than which the money is to be transmitted. All moneys received by an unincorporated bank for transmission to a foreign country shall be forwarded to the person designated to receive the same within five days after the receipt thereof, unless a later date be fixed in such receipt.

**Note:**—This takes the place of sections 6 and 7 of the act of 1911, but omits the penal provision of the latter section and permits the fixing in the receipt of a period for transmission longer than five days.

**Section 146. Satisfaction of Mortgages, etc.**—Whenever it becomes necessary to satisfy any mortgage, judgment or lien which has been accepted by the Licensing Board, under the provisions of the act of June 19, 1911, entitled "An act to provide for licensing and regulating private banking in the Commonwealth of Pennsylvania, and providing penalties for the violation thereof," the Commissioner shall have power to cause satisfaction or relief to be entered upon the record in such manner and form as are now prescribed under existing laws.

**Note:**—This takes the place of the act of May 23, 1913 (P. L. 334; 5 *Purd.* 5354), which requires a resolution of the Board giving the Commissioner power of attorney. The Board will of course be abolished by the repeal of the act of 1911.

**Section 147. Conversion of Unincorporated Bank into State Bank or Trust Company.**

(a) **Method of Incorporation.**—Any unincorporated bank lawfully doing business in this state may be converted into an incorporated state bank or trust company by complying with the provisions of this act in regard to the incorporation of such banks and trust companies; and in the event of such incorporation the capital stock may be paid by a transfer of the assets of such unincorporated bank, provided the live assets of such unincorporated bank shall exceed its liabilities by an amount equal to the amount of the capital stock, such assets to be taken at the true value thereof. The Commissioner shall cause an examination of such unincorporated bank to be made and its assets and liabilities ascertained before authorizing payment of the capital by a transfer of such assets and before approving the certificate of incorporation.

(b) **Effect of Incorporation.**—Upon the incorporation of any unincorporated bank as herein provided, all the assets of every kind and character, including the real and personal property, and choses in action, belonging to such unincorporated bank shall be deemed to be transferred to and vested in such incorporated state bank or trust company without any deed, transfer or assignment being executed,

and the incorporated state bank or trust company shall hold and enjoy the same in the same manner and to the same extent as the unincorporated bank held and owned the same.

(c) Rights of Creditors and Others.—The rights of the creditors and depositors of such unincorporated bank shall not be impaired in any manner by such incorporation, nor shall any liability or obligation for the payment of any money due or to become due, or any claim or demand existing against such unincorporated bank be in any manner released or impaired thereby, and all the rights, obligations and relations of all the parties, depositors, and others shall remain unimpaired by such incorporation. Such incorporated state bank or trust company into which such unincorporated state bank shall be converted shall succeed to and be held liable to pay and discharge all obligations and liabilities in the same manner as though such incorporated state bank or trust company had itself incurred the obligation or liability; and no suit or other proceeding then pending before any court or tribunal in which such unincorporated bank is a party shall be deemed to have abated or been discontinued by reason of any such incorporation, but the same may be prosecuted to final judgment in the same manner as if such unincorporated bank had not been so converted, and the incorporated state bank or trust company may be substituted in place of the unincorporated bank by order of the court in which such action, suit or proceeding may be pending. Such incorporated state bank or trust company shall likewise be subject to be sued in any court having jurisdiction upon any cause of action against such converted unincorporated bank, in the same manner as if such cause of action had originated against such incorporated state bank or trust company.

Note:—This new section provides a method whereby private banks may be directly converted into incorporated state banks or trust companies without the necessity of having the individual partners apply for a charter and wind up the affairs of the unincorporated bank.

Section 148. Matters Not Specifically Covered by This Article.—Unincorporated banks shall be subject to the provisions of sections 100 to 106, inclusive, of this act, so far as the same are not in conflict with the provisions of this Article, save that “capital invested in the business” shall be substituted for “capital stock” in sections 104 and 105.

Note:—This section has been drafted to avoid repeating in this Article the sections covered by the cross-references.

## ARTICLE VIII.—CRIMINAL OFFENCES BY OFFICERS, DIRECTORS OR EMPLOYEES OF BANKS.

Section 149. False Swearing.—The wilful and deliberate false swearing by any officer, director, partner or employee of any bank, in



any case where an oath or affirmation is required of him in such capacity by this act or by any law of this commonwealth, shall constitute perjury and be punishable, upon conviction, in the same manner as perjury is or may be punishable by law.

Note:—This takes the place of section 1 of the act of April 3, 1840, (P. L. 716; 1 Purd. 436). It has been extended so as to include partners in unincorporated banks; and the crime is declared to be perjury, instead of a misdemeanor punishable by stated fine and imprisonment. It does not cover violations of the official oath, which are included in section 153 of this Act.

Section 150. Compensation for Procuring Loans.—No officer, director, partner, associate, employee or attorney of any bank may stipulate for, or receive or consent or agree to receive, any fee, commission, gift or thing of value for procuring or endeavoring to procure for any person or corporation any loan from, or the purchase or discount of any negotiable paper or other evidence of debt by, such bank: Provided, That nothing herein contained shall prevent the payment by a bank of a rate of interest on a deposit with such bank of any officer, director, partner, associate, employee or attorney, not greater than that paid to other depositors on similar deposits.

Any violation of the provisions of this section shall constitute a misdemeanor, punishable on conviction by fine not exceeding one thousand dollars, or imprisonment not exceeding three years, or both, at the discretion of the court.

Note:—This section is new.

Section 151. False Certification of Checks.—Whoever, being an officer, director, partner, associate, employee or agent of a bank, wilfully certifies a check drawn on such bank and fails forthwith to charge the amount thereof against the account of the drawer, or wilfully certifies a check drawn upon the bank unless the drawer of such check has on deposit with the bank an amount of money subject to the payment of such check and equal to the amount specified therein, shall be guilty of a misdemeanor and on conviction thereof shall be subject to a fine of not more than one thousand dollars or imprisonment not exceeding one year, or both, at the discretion of the court.

Note:—This section is new.

Section 152.—Embezzlement and Frauds.

(a) Embezzlement Generally.—If any president, cashier, director, trustee or any other officer or employee of any bank shall fraudulently embezzle or appropriate to his own use, or to the use of any other person or persons, or misapply any money or other property belonging to said bank, or left with the same as a special deposit or otherwise, he or they, upon conviction of such offence, shall be fined in any amount not less than the sum appropriated or embezzled and sentenced to undergo imprisonment in the proper state penitentiary, to be kept in



separate and solitary confinement at hard labor for any term not exceeding five years: Provided, That this shall not prevent any person or persons aggrieved from pursuing his, her or their civil remedy against such person or persons.

Note:—This re-enacts section 19 of the act of May 13, 1876 (P. L. 167; 1 Purd 405) with the addition of the word "trustee" and the substitution of "employee" for "clerk," and makes the section applicable to all banks.

Section 20 of the act of April 16, 1850 P. L. 486; 1 Purd. 426, is substantially the same.

(b) Embezzlement; Misapplication of Funds; Frauds and False Entries.—Every president, director, trustee, cashier, teller, employee or agent of any bank who shall embezzle, abstract or wilfully misapply any of the moneys, funds or credits of such bank, or shall, without authority from the directors or trustees, fraudulently issue or put forth any certificate of deposit, draw any order or bill of exchange, mortgage or other instrument of writing, or shall make any false entry on any book, report or statement of the bank, with an intent, in either case, to injure or defraud such bank, or to injure or defraud any other company, body corporate or politic, or any individual person, or to deceive any officer or agent appointed to inspect the affairs of any bank, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be confined in the penitentiary, at hard labor, not less than one, nor more than ten years.

Note:—This re-enacts section 36 of the act of May 1, 1861 (P. L. 515), adding the references to "trustees," substituting "employee" for "clerk," and omitting the provision as to fraudulent circulation of the notes of the bank, which is obsolete.

Section 153. Punishment for Offences Not Otherwise Provided For.—If any officer, director, partner, associate or employee of any bank shall wilfully violate any provision of this act or of his official oath, for which violation no other criminal punishment is specially provided in this act, he shall be guilty of a misdemeanor and upon conviction thereof shall be sentenced to pay a fine not exceeding one thousand dollars and to be imprisoned for a period not exceeding one year, or either, at the discretion of the court.

Note:—This is derived from section 16 of the act of 1850 (1 Purd. 426), which, however, is limited to officers and directors who have taken the official oath.

## ARTICLE IX. — REPEALER.

Section 154. The following acts and parts of acts of assembly are hereby repealed as respectively indicated. The repeal of the first section of an act shall not repeal the enacting clause, and the repeal of a repealing act shall not revive the act or acts repealed thereby.

An act entitled "An act relating to the association of individuals for the purpose of banking," passed March 28, 1808, 4 Sm. L. 536, absolutely.

An act entitled "An act regulating banks," passed March 21, 1813, 6 Sm. L. 154, absolutely.

An act entitled "A supplement to an act, entitled 'An act regulating banks,'" passed January 27, 1819, 7 Sm. L. 148, absolutely.

An act entitled "An act providing for the closing of the concerns of banking institutions," passed April 1, 1822, 7 Sm. L. 541, absolutely.

An act entitled "An act to prescribe the manner of giving notice for application for banks," approved June 1, 1839, P. L. 235, absolutely.

Section 8 of an act entitled "An act to re-charter the Farmers' and Mechanics' Bank of Philadelphia," approved April 18, 1843, P. L. 309, absolutely.

An act entitled "An act relating to investigation into the affairs of banks or savings institutions applying to the legislature for re-charter," approved January 26, 1849, P. L. 21, absolutely.

An act entitled "An act regulating banks," approved April 16, 1850, P. L. 477, absolutely.

Section 15 of an act entitled "An act to regulate certain election districts, defining the duties of the street commissioners of New Brighton, Beaver County, providing for the widening of Broad Street, relative to the election of cashiers and solicitors of banks in Philadelphia County, authorizing the corporation of the city of Philadelphia to lay gas pipes through public highways, changing the name of Charles Orrick Barton Campbell to that of Charles Barton Campbell, and incorporating the Germantown Water Company," approved March 29, 1851, P. L. 293, absolutely.

An act entitled "A further supplement to an act regulating banks, approved April sixteen, Anno Domini, one thousand eight hundred and fifty," approved April 22, 1854, P. L. 467, absolutely.

An act entitled "An act relative to solicitors of banks in the county of Philadelphia," approved May 6, 1854, P. L. 595, absolutely.

An act entitled "A further supplement to an act regulating banks, approved the sixteenth day of April, one thousand eight hundred and fifty," approved April 18, 1855, P. L. 258, absolutely.

An act entitled "A further supplement to an act regulating banks, approved April sixteen, one thousand eight hundred and fifty," approved May 7, 1855, P. L. 508, absolutely.

An act entitled "A supplement to an act regulating banks, approved April sixteen, one thousand eight hundred and fifty," approved April 18, 1856, P. L. 403, absolutely.

An act entitled "An act providing for the resumption of specie payments by banks, and for the relief of debtors," approved October 13, 1857. P. L. (1858), 611, absolutely.

An act entitled "An act authorizing savings institutions, insurance and trust companies and loan associations to make investments in ground rents," approved April 21, 1858, P. L. 412, so far as the same relates to trust companies and savings banks.

An act entitled "An act authorizing vice-presidents of banks to receive salaries for their services," approved April 13, 1859, P. L. 613, absolutely.

Section 64 of an act entitled "An act to consolidate, revise and amend the penal laws of this commonwealth," approved March 31, 1860, P. L. 382, absolutely.

An act entitled "An act to establish a system of free banking in Pennsylvania, and to secure the public against loss from insolvent banks," approved March 31, 1860, P. L. 459, absolutely.

An act entitled "An act requiring the resumption of specie payments by the banks, and for equalization of the currency of the state," approved April 17, 1861, P. L. 341, absolutely.

An act entitled, "Supplement to an act to establish a system of free banking in Pennsylvania, and to secure the public against loss from insolvent banks, approved March 31, 1860," approved May 1, 1861, P. L. 503, absolutely.

An act entitled "An act enabling the banks of this commonwealth to become associations for the purpose of banking, under the laws of the United States," approved August 22, 1864, P. L. 977, absolutely.

An act entitled "A supplement to the act entitled 'An act regulating banks,' approved April sixteenth, one thousand eight hundred and fifty," approved April 12, 1867, P. L. 71, absolutely.

Sections 1 and 4 of an act entitled "An act relating to unclaimed deposits in savings banks, and transfer of stock," approved April 17, 1872, P. L. 62, absolutely.

An act entitled "An act fixing the liability of stockholders of banks and banking companies and other banking institutions in this commonwealth," approved May 11, 1874, P. L. 135, absolutely.

An act entitled "An act to secure to married women and minors the control of money deposited by them in banks," approved May 15, 1874, P. L. 193, absolutely.

An act entitled "An act for the incorporation and regulation of banks of discount and deposit," approved May 13, 1876, P. L. 161, absolutely, except that section 11 is continued in effect as to state banks in existence at the date of the approval of this act.

**An act** entitled "An act relating to the execution of trusts by corporations," approved February 16, 1877, P. L. 3, absolutely.

An act entitled "An act extending the provisions of an act, entitled '**An act regulating the rate of interest,**' approved May twenty-eighth, one thousand eight hundred and fifty-eight, to all corporations authorized to loan money within the commonwealth, and



repealing all laws inconsistent with the provisions of said act," approved May 23, 1878, P. L. 109, so far as the same relates to state banks, trust companies and saving banks.

An act entitled "An act to authorize banks and savings institutions to divide their capital stock into shares of the par value of not less than fifty dollars," approved June 4, 1879, P. L. 94, absolutely.

An act entitled "An act to provide for the manner of decreasing the capital stock of banking corporations," approved June 11, 1879, P. L. 133, absolutely.

An act entitled "A supplement to an act, entitled 'An act to provide for the incorporation and regulation of certain corporations,' approved the twenty-ninth day of April, Anno Domini, one thousand eight hundred and seventy-four," approved May 24, 1881, P. L. 22, absolutely.

An act entitled "An act relating to evidence from bank books," approved June 22, 1883, P. L. 154, absolutely.

An act entitled "An act to provide for the manner of decreasing the capital stock of banking corporations," approved June 22, 1883, P. L. 155, absolutely.

An act entitled "An act authorizing trust companies to transact safe deposit business, and also to increase capital and change the par value of shares representing the same," approved June 11, 1885, P. L. 111, absolutely.

An act entitled "An act to provide for renewing and extending charters of provident institutions, savings institutions and savings banks," approved June 30, 1885, P. L. 201, so far as the same relates to savings banks.

An act entitled "An act enabling the banks of this commonwealth to become associations for the purpose of banking under the laws of the United States," approved April 26, 1889, P. L. 56, absolutely.

An act entitled "An act to provide for and regulate the renewal and extension of the charters of state banks," approved April 26, 1889, P. L. 61, absolutely.

An act entitled "An act supplementary to an act entitled 'An act to provide for the incorporation and regulation of certain corporations,' approved the twenty-ninth day of April, Anno Domini one thousand eight hundred and seventy-four, amending the twenty-ninth section of said act, so as to provide for the further regulation of and granting additional powers to all corporations now or hereafter incorporated under the provisions of said act for the insurance of owners of real estate, mortgagees and others interested in real estate, from loss by reason of defective titles, liens and incumbrances," approved May 9, 1889, P. L. 159, absolutely.



An act entitled "A supplement to an act entitled 'An act to provide for renewal and extending charters of provident institutions, savings institutions and savings banks,' approved June thirtieth, Anno Domini one thousand eight hundred and eighty-five, amending the first section thereof providing for the renewals and extending charters of banks, banks of discount and saving banks and trust companies," approved May 10, 1889, P. L. 185, absolutely.

An act entitled "An act to provide for the incorporation and regulation of savings banks and institutions without capital stock, established for the encouragement of saving money," approved May 20, 1889, P. L. 246, absolutely.

An act entitled "An act to encourage and authorize the formation of co-operative banking associations where the profits derived from the business, after paying all legitimate expenses, shall accrue to the depositors and borrowers of the association in proportion to their deposits or loans," approved May, 18, 1893, P. L. 89, except as to associations in existence at the date of approval of this act.

An act entitled "An act to authorize certain banks to improve and derive rent from buildings held by them for banking purposes," approved May 23, 1893, P. L. 111, absolutely.

An act entitled "An act to amend the fourth section of an act, entitled 'An act supplementary to an act, entitled "An act to provide for the incorporation and regulation of certain corporations," approved the twenty-ninth day of April, Anno Domini one thousand eight hundred and seventy-four, amending the twenty-ninth section of said act, so as to provide for the further regulation of and granting additional powers to all corporations now or hereafter incorporated under the provisions of said act for the insurance of owners of real estate, mortgagees and others interested in real estate, from loss by reason of defective titles, liens and encumbrances,' enlarging the powers of such corporations and providing that courts into which moneys may be paid or brought may, by order, direct the same to be deposited with any such corporation," approved May 29, 1895, P. L. 127, absolutely.

An act entitled "An act conferring upon certain fidelity, insurance, safety deposit, trust and savings companies the powers and privileges of companies incorporated under the provisions of section twenty-nine of an act, entitled 'An act to provide for the incorporation and regulation of certain corporations,' approved April twenty-ninth, Anno Domini one thousand eight hundred and seventy-four, and of the supplements thereto," approved June 27, 1895, P. L. 399, so far as the same relates to state banks, trust companies and savings banks.

An act entitled "An act authorizing banks chartered under the laws of Pennsylvania to pay interest upon demand deposits," approved June 10, 1897, P. L. 138, absolutely.

An act entitled "An act to amend the eighth section of an act, entitled 'An act for the incorporation and regulation of banks of discount and deposit,' approved the thirteenth day of May, Anno Domini one thousand eight hundred and seventy-six," approved April 19, 1901, P. L. 79, absolutely.

An act entitled "An act to authorize banks and banking companies to improve any real estate they may hold for the accommodation and transaction of their business, by the erection, renewal or replacing of buildings thereon, and to derive rent therefrom," approved May 21, 1901, P. L. 288, absolutely.

An act entitled "An act to limit the amount of loans to officers and directors of banks, trust companies, and savings institutions, with capital stock, heretofore or hereafter incorporated in this commonwealth, and prohibiting loans upon the security of the capital stock of such corporations," approved June 14, 1901, P. L. 561, absolutely.

An act entitled "An act authorizing banks chartered under the laws of the commonwealth of Pennsylvania to loan money on the security of bonds and mortgages on real estate, and to invest their funds in bonds, mortgages, notes and other interest bearing securities and obligations," approved July 10, 1901, P. L. 639, absolutely.

An act entitled "An act supplementary to an act, entitled 'An act conferring upon certain fidelity, insurance, safety deposit, trust and savings companies the powers and privileges of corporations incorporated under the provisions of section twenty-nine of an act, entitled 'An act to provide for the incorporation and regulation of certain corporations,' approved April twenty-ninth, Anno Domini one thousand eight hundred and seventy-four, and of the supplements thereto,' approved the twenty-seventh day of June, one thousand eight hundred and ninety-five," approved April 21, 1903, P. L. 223, absolutely.

An act entitled "An act regulating the change of corporate titles," approved April 22, 1903, P. L. 251, so far as the same relates to state banks, trust companies and savings banks.

An act entitled "An act to provide for the creation and maintenance of a reserve fund in all banks, banking companies, savings banks, savings institutions, companies authorized to execute trusts of any description and to receive deposits of money, which are now or which may hereafter be incorporated under the laws of this commonwealth, and in all trust companies or other companies receiving deposits of money, which may have been heretofore or which may hereafter be incorporated under section twenty-nine of the act approved April twenty-ninth, one thousand eight hundred and seventy-four, entitled 'An act for the creation and regulation of corporations,' and the supplements thereto," approved May 8, 1907, P. L. 189, absolutely.

An act entitled "A supplement to an act of assembly of the commonwealth of Pennsylvania, entitled, "An act to provide for the incorporation and regulation of certain corporations." approved the twenty-ninth day of April, Anno Domini one thousand eight hundred and seventy-four, as the same has been supplemented by acts of assembly of said commonwealth, approved on the following dates; namely, sixteenth day of February, Anno Domini one thousand eight hundred and seventy-four; twenty-fourth day of May, Anno Domini one thousand eight hundred and eighty-one; twenty-ninth day of May, Anno Domini one thousand eight hundred and eighty-five; eleventh day of June, Anno Domini one thousand eight hundred and eighty-five; twenty-fifth day of June, Anno Domini one thousand eight hundred and eighty-five; ninth day of May, Anno Domini one thousand eight hundred and eighty-nine; twenty-ninth day of May, Anno Domini one thousand eight hundred and ninety-five; twenty-sixth day of June, Anno Domini one thousand eight hundred and ninety-five; twenty-seventh day of June, Anno Domini one thousand eight hundred and ninety-five; second day of May, Anno Domini one thousand nine hundred and one; fourth day of June, Anno Domini one thousand nine hundred and one; twenty-first day of April, Anno Domini one thousand nine hundred and three, and seventeenth day of April, Anno Domini one thousand nine hundred and five; inter alia providing for the establishment and regulation of trust companies," approved May 8, 1907, P. L. 192, absolutely.

An act entitled "An act amending clause four of section twenty-nine of section one of an act entitled 'An act conferring upon certain fidelity, insurance, safety deposit, trust, and savings companies the powers and privileges of companies incorporated under the provisions of section twenty-nine of an act, entitled "An act to provide for the incorporation and regulation of certain corporations," approved April twenty-ninth, Anno Domini one thousand eight hundred and seventy-four, and of the supplements, thereto,' approved the twenty-seventh day of June, Anno Domini one thousand eight hundred and ninety-five (Pamphlet Laws, three hundred and ninety-nine)," approved June 7, 1907, P. L. 454, absolutely.

An act entitled "An act requiring every person, firm, or unincorporated association of this commonwealth, who shall hereafter engage in the banking business within this commonwealth, to report to, and be under the supervision of, the Commissioner of Banking." approved June 7, 1907, P. L. 461, absolutely.

An act entitled "An act requiring banks, trust companies, savings fund societies, building and loan associations, bond and investment companies, provident associations, and all other corporations under supervision of the commissioner of banking, to furnish receipt in full to each depositor or investor for moneys received, which shall also be



entered in full on the books of the company; statement of liabilities to be set out in full in all reports to commissioner of banking or other supervisory authorities; statement of all moneys borrowed, to be placed in full as liabilities on books of the company; violation of provisions of this act a misdemeanor, and penalty therefor," approved June 12, 1907, P. L. 525, so far as the same relates to state banks, trust companies and savings banks.

An act entitled "An act restricting the use of the word 'trust' as part of a corporate name; forbidding advertising or doing business as a trust company, except by corporations under the supervision of the banking department; and providing a penalty for violations thereof." approved April 22, 1909, P. L. 121, absolutely.

An act entitled "An act to amend section five of an act, entitled 'An act for the incorporation and regulation of banks of discount and deposit.' approved the thirteenth day of May, Anno Domini one thousand eight hundred and seventy-six (Pamphlet Laws one hundred and sixty-one); changing the minimum capitalization required in certain cases," approved May 3, 1909, P. L. 412, absolutely.

An act entitled "An act requiring each and every director of a bank of discount, banking company, co-operative banking association, trust company, safe deposit company, real estate company, mortgage company, title insurance company, guarantee company, surety and indemnity company, and savings bank, which has been or may hereafter be incorporated under the laws of this commonwealth, with the right to receive moneys on deposit, to take an oath of office, and prescribing the form thereof; said oath to be filed with the Commissioner of Banking." approved June 3, 1911, P. L. 652, so far as the same relates to state banks, trust companies and savings banks.

An act entitled "An act to provide for licensing and regulating private banking in the commonwealth of Pennsylvania; and providing penalties for the violation thereof," approved June 19, 1911, P. L. 1060, absolutely.

An act entitled "An act to give the status of a depositor, as to preference, over other creditors, to persons, firms, or corporations accepting from a bank or trust company its check in payment of a depositor's check," approved May 21, 1913, P. L. 294, absolutely.

An act entitled "An act enabling the board consisting of the state treasurer, secretary of the commonwealth, and the commissioner of banking, to authorize, on behalf of the commonwealth, the satisfaction of record of any mortgage, judgment, or lien which has been or may hereafter be accepted by the said board, under the provisions of the act of June nineteenth, one thousand nine hundred and eleven, entitled 'An act to provide for licensing and regulating private banking in the commonwealth of Pennsylvania, and providing penalties for the violation thereof,' " approved May 23, 1913, P. L. 334, absolutely.



An act entitled "An act to amend an act, approved the tenth day of June, one thousand eight hundred and ninety-seven, entitled 'An act authorizing banks chartered under the laws of Pennsylvania to pay interest upon demand deposits,' by authorizing interest on time deposits," approved May 23, 1913, P. L. 338, absolutely.

An act entitled "An act to amend section one of an act, entitled 'A supplement to an act of assembly of the commonwealth of Pennsylvania, entitled "An act to provide for the incorporation and regulation of certain corporations," approved the twenty-ninth day of April, Anno Domini one thousand eight hundred and seventy-four, as the same has been supplemented by acts of assembly of said commonwealth, approved on the following dates: namely, sixteenth day of February, Anno Domini one thousand eight hundred and seventy-four; twenty-fourth day of May, Anno Domini one thousand eight hundred and eighty-one; twenty-ninth day of May, Anno Domini one thousand eight hundred and eighty-five; eleventh day of June, Anno Domini one thousand eight hundred and eighty-five; twenty-fifth day of June, Anno Domini one thousand eight hundred and eighty-five; ninth day of May, Anno Domini one thousand eight hundred and eighty-nine; twenty-ninth day of May, Anno Domini one thousand eight hundred and ninety-five; twenty-sixth day of June, Anno Domini one thousand eight hundred and ninety-five; twenty-seventh day of June, Anno Domini one thousand eight hundred and ninety-five; second day of May, Anno Domini one thousand nine hundred and one; fourth day of June, Anno Domini one thousand nine hundred and one; twenty-first day of April, Anno Domini one thousand nine hundred and three, and seventeenth day of April, Anno Domini one thousand nine hundred and five; inter alia providing for the establishment and regulation of trust companies,' approved the eighth day of May, Anno Domini one thousand nine hundred and seven; by enlarging and extending the preference given to depositors, so as to include deposits payable only after specified notice, or at the expiration of a fixed period; and defining and including as depositors bona-fide holders for value of certified checks on, or of certificates of deposit issued by, trust company, or of checks or drafts given in exchange for, or in payment of, checks or drafts of depositors of a trust company drawn thereon," approved May 23, 1913, P. L. 354, absolutely.

An act entitled "An act to amend the first section of an act, entitled 'An act authorizing banks chartered under the laws of the commonwealth of Pennsylvania to loan money on the security of bonds and mortgages on real estate, and to invest their funds in bonds, mortgages, notes and other interest bearing securities and obligations,' approved the tenth day of July, Anno Domini one thousand nine hundred and one (Pamphlet Laws, six hundred and thirty-nine), by defining more definitely the amount of money banks may loan on the se-

curity of, and the amount said banks may invest in, bonds and mortgages on real estate," approved July 24, 1913, P. L. 972.

An act entitled "A supplement to an act, entitled 'An act to encourage and authorize the formation of co-operative banking associations, where the profits derived from the business, after paying all legitimate expenses, shall accrue to the depositors and borrowers of the associations in proportion to their depositors or loans,' approved the eighteenth day of May, one thousand eight hundred ninety-three, and providing for the conversion of co-operative banking associations into banks of discount and deposit, under certain regulations." approved May 14, 1915, P. L. 476, absolutely.

An act entitled "An act specifying additional securities in which trustees or directors of savings banks, savings institutions and provident institutions, chartered under general or special acts of assembly, may invest moneys deposited therein," approved April 5, 1917, P. L. 47, absolutely.

An act entitled "An act empowering banks and trust companies to accept drafts and issue letters of credit," approved June 7, 1917, P. L. 609, absolutely.

An act entitled "An act to amend sections two and three of the act, entitled 'An act to provide for the creation and maintenance of a reserve fund in all banks, banking companies, savings banks, savings institutions, companies authorized to execute trusts of any description and to receive deposits of money, which are now or which may hereafter be incorporated under the laws of this commonwealth, and in all trust companies or other companies receiving deposits of money, which may have been heretofore or which may hereafter be incorporated under section twenty-nine of the act, approved April twenty-ninth, one thousand eight hundred and seventy-four, entitled "An act for the creation and regulation of corporations." and the supplements thereto,' approved the eighth day of May, Anno Domini one thousand nine hundred and seven, by providing that such reserve fund may consist in part of gold or silver certificates, notes or bills issued by a Federal Reserve Bank; and authorizing a portion of such reserve fund to be deposited in any bank or trust company, located in any state other than Pennsylvania, which shall have been approved by the commissioner of banking of this commonwealth." approved July 11, 1917, P. L. 791, absolutely.

An act entitled, "An act authorizing any bank or trust company incorporated under the laws of this commonwealth to become a member of a Federal reserve bank, and in such event to be subject to all the provisions of the act of Congress known as the Federal Reserve Act; allowing any such bank or trust company to comply with the reserve requirements of such act, in lieu of those established by the laws of this commonwealth, and permitting the commissioner of banking to

accept the examinations and audits made pursuant to such act, in lieu of those required by the laws of this commonwealth," approved July 17, 1917, P. L. 1021, absolutely.

An act entitled "An act concerning transactions by banks and trust companies after twelve o'clock noon on Saturdays," approved July 18, 1917, P. L. 1067, absolutely.

An act entitled "An act to amend section twelve of an act, approved the thirteenth day of May, one thousand eight hundred seventy-six, entitled 'An act for the incorporation and regulation of banks of discount and deposit,' " approved July 19, 1917, P. L. 1101, absolutely.

An act entitled "A supplement to an act approved the thirteenth day of May, eighteen hundred and seventy-six, entitled 'An act for the incorporation and regulation of banks of discount and deposit,' and authorizing the creation and maintenance of sub-offices or sub-agencies," approved July 28, 1917, P. L. 1235, absolutely.

An act entitled "An act to amend section two of an act, approved the twenty-eighth day of May, one thousand nine hundred and thirteen (Pamphlet Laws, three hundred and seventy-eight), entitled 'An act authorizing certain corporations to issue preferred stock of one or more classes; providing for the manner of issuance, restrictions and regulations in the matter of voting thereof, and the rights and privileges of the holders thereof; and repealing all acts or parts of acts inconsistent therewith,' " approved May 2, 1919, P. L. 109, absolutely.

An act entitled "An act relating to the organization, maintenance, and operation of the Banking Department, and the scope of its supervision and control over corporations, partnerships, unincorporated associations, and individuals, and the assets and liabilities thereof; providing penalties for the enforcement of its provisions; and repealing certain acts," approved May 21, 1919, P. L. 209, absolutely, except section 53 thereof.

An act entitled "An act to relieve banks, trust companies, and bankers from liability to depositors because of the nonpayment, through mistake or error and without malice, of a check which should have been paid, unless the depositor shall allege and prove actual damage by reason of such nonpayment, and limiting the liability in such event," approved June 12, 1919, P. L. 453, absolutely.

An act entitled "An act authorizing banking companies, incorporated and organized under the laws of the commonwealth and having capital stock at least equal to the capital stock which trust companies are required by law to have, to act in any fiduciary capacity in which trust companies organized under the laws of the commonwealth are empowered to act, and prescribing the method of acquiring such rights," approved July 17, 1919, P. L. 1032, absolutely.

All other acts of assembly, or parts thereof, that are in any way in conflict or inconsistent with this act, or any part thereof, are hereby repealed.











